

RECORD OF PROCEEDINGS OF A
COURT OF INQUIRY
CONVENED AT
TRIAL SERVICE OFFICE PACIFIC
BY ORDER OF
COMMANDER IN CHIEF
UNITED STATES PACIFIC FLEET
TO INQUIRE INTO A COLLISION
BETWEEN USS GREENEVILLE (SSN 772) AND
JAPANESE M/V EHIME MARU THAT OCCURRED
OFF THE COAST OF OAHU, HAWAII
ON 9 FEBRUARY 2001
ORDERED ON 17 FEBRUARY 2001
AS AMENDED ON 22 FEBRUARY 2001;
26 FEBRUARY 2001;
1 MARCH 2001; AND
9 MARCH 2001

At Trial Service Office Pacific
Naval Station, Pearl Harbor, Hawaii
Tuesday, 20 March 2001

The court opened at 0800 hours.

PRES: This court is now in session. Counsel for the Court?

CC: Let the record reflect that all members, parties, and counsel are again present. Mr. President, we have two exhibits to offer. The first exhibit is Procedural Exhibit Sierra, and that is ADM Fargo's denial of the testimonial immunity request on CDR Waddle. The second is Exhibit Tango, which is the Privacy Act Statement executed by CDR Waddle.

PRES: Counsel for the Court, procedural matters?

CC: Sir, no more procedural matters.

PRES: Counsel for parties, procedural matters?

Counsel for CDR Waddle, party (Mr. Gittins): No procedural matters, sir.

Counsel for LCDR Pfeifer, party (LCDR Stone): No, sir.

Counsel for LTJG Coen, party (LCDR Filbert): No, sir.

PRES: Okay. Counsel for CDR Waddle, you can proceed.

Counsel for CDR Waddle, party (Mr. Gittins): Thank you, sir. Sir, I want to thank you for the opportunity to have a little time to prepare for today. At this time, we call to the stand CDR Scott B. Waddle, to provide testimony under oath.

CC: Sir, before we do that I'm going to have to warn CDR Waddle of his rights. Mr. Gittins, do you wish me to do that outside of court or do you want me to do that in here?

Counsel for CDR Waddle, party (Mr. Gittins): I wish you to read CDR Waddle his military rights under Article 31, of the Uniform Code of Military Justice, in this courtroom in front of the public, sir.

CC: Very well. CDR Waddle, you are suspected of having committed the following offenses under the Uniform Code of Military Justice: Violation of the UCMJ, Article 92 - Dereliction of duty; Violation of the UCMJ, Article 110 - Improper hazarding of a vessel; Article 134 - Negligent homicide. You have the following rights: You have the right to remain silent. Any statement you do make may be used as evidence against you in trial by courts-martial, but that any prior illegal admissions or other improperly attained evidence which incriminated you cannot be used against you in a trial by court-martial; You have the right to consult with lawyer counsel prior to any questioning. This lawyer counsel may be a civilian lawyer retained by you, at your own expense, or a military lawyer appointed to act as your counsel without cost to you, or both; and you have the right to have such retained civilian lawyer and/or appointed military lawyer present during these proceedings. Now, do you fully understand your rights as I've explained them to you?

WIT: I understand them, sir.

PRES: Counsel, you may proceed.

CC: Just a minute, sir, I need to go through the waiver of rights. Do you expressly desire to waive your rights to remain silent?

WIT: I desire to waive my right to remain silent.

CC: Do you expressly desire to make a statement to the court?

WIT: I desire to make a statement to the court.

CC: Have you had sufficient opportunity to consult with Mr. Gittins and your military attorneys appointed as your counsel?

WIT: I have, sir.

CC: Is this waiver of rights made freely and voluntarily by, and without any promises or threats having been made to you, or pressure or coercion of any kind having been used against you?

WIT: It is, sir.

CC: Okay. Mr. President, we're ready to proceed.

PRES: Counsel?

Counsel for CDR Waddle, party (Mr. Gittins): We call CDR Waddle.

Commander Scott B. Waddle, party, took the stand to testify in his own behalf, was duly sworn, and examined as follows:

DIRECT EXAMINATION

Questions by the counsel for CDR Waddle, party (Mr. Gittins):

Q. Scott, do you have a statement you'd like to make this Court of Inquiry?

A. I do. Yes, sir.

Q. Please provide your statement to the court members.

A. VADM Nathman, RADM Sullivan, RADM Stone, as I indicated publicly yesterday before court I accept full responsibility and accountability for the actions of the crew of the USS GREENEVILLE on 9 February 2001. As the Commanding Officer, I am solely responsible for this truly tragic accident. And, for the rest of my life, I will live with the horrible consequences of my decisions and actions that resulted in the loss of the EHIME MARU and nine of its crew, instructors, and students. I am truly sorry for the loss of life and for the incalculable grief that those losses caused the honorable families of those lost at sea.

I have always assumed that the purpose of this investigation would be to ascertain the cause of this accident for the Navy, for the submarine force, and most importantly for the families of those lost on the motor vessel, the EHIME MARU. To that end, I

have always been willing to provide the information I possessed about this accident, consistent with protecting my legal rights and my family's future. I understand the realities of this accident and the substantial international and diplomatic implications it has had on the United States' bilateral relations with Japan. Prime Minister Mori's visit today could not make those considerations more plain. I am also aware and understand the real potential that those political and diplomatic pressures might exert on the military justice system where those decisions are made at various senior levels.

Therefore, on the advice of my three very competent, and qualified counsel, I requested testimonial immunity from ADM Fargo to assure a full, fair, thorough, and complete investigation by preserving my rights and taking reasonable precautions in the event the international and political environment dictated that I be sacrificed to an unwarranted court-martial.

I have been informed by counsel that this court's recommendation was that the testimonial immunity should be denied for me because my testimony, quote, "is not essential or material to the conclusion of the court's investigation", unquote. Counsel has informed me that since you consider my testimony unnecessary, that I should not provide it. I have, however, decided, with the advice of my counsel, that your determination that my testimony is not essential or material is wrong. And, I have decided to testify, under oath, subject to cross-examination.

When I was assigned as a Commanding Officer and as Commanding Officer of the USS GREENEVILLE, I assumed an awesome responsibility. I have no less of a responsibility to stand up and explain the exercise of my judgement as Commanding Officer and I am prepared to do so. I've given my entire adult life to the Navy. I have served the Navy faithfully and honestly. For my entire Navy career, including the day 9 February 2001, I have done my duty to the best of my ability. I am truly sorry for this accident and the loss of life that it caused on the 9th of

February. I was trying my best to do the job that I had been assigned. If I made a mistake or mistakes, those mistakes were honest and well intentioned. I'm truly sorry for this accident. It has been a tragedy for the families of those lost, for the crew of the USS GREENEVILLE, for their families, for the submarine force, for me, and for my family. I understand by speaking now I may be forfeiting my ability to successfully defend myself at a court-martial. This court and the families need to hear from me, despite the personal legal prejudice to me and because it is the right thing to do.

Gentleman, I am prepared to answered your questions and address your concerns.

PRES: You have no questions, counsel?

Counsel for CDR Waddle, party (Mr. Gittins): No, sir.

PRES: Okay. RADM Stone?

EXAMINATION BY THE COURT

MBR (RADM STONE): Good morning, CDR Waddle.

WIT: Good morning, Admiral.

MBR (RADM STONE): I'm very pleased to see that you're being--you're testifying this morning. Because as you stated the accountability of the Commanding Officer to step forward and tell the truth, regardless of the consequences, is the important concept of command. And so, by us being able to ask these questions and get to the Commanding Officer's perspective I think will be quite helpful. I'm going to start on one of the basic fundamentals of command when we go to sea and talk to you a little bit about the watchbill. So I'd ask that court counsel, if you'd put the watchbill up for 9 February. I think our questioning here will help us uncover some perspective on your thoughts on watchbill accountability so that future Commanding Officers also can glean some lessons from this tragic accident.

[LCDR Harrison did as directed.]

Questions by a court member (RADM Stone):

Q. Do you agree that you were the approving authority for the 9 February watchbill?

A. Yes, sir, I was the approving authority on the 9 February watchbill, Exhibit 41, as shown.

Q. Have you--as you've heard in the testimony of the last 11 days, various court members have commented on during the course of the day, something in the area of 9 out of the 13 watchstations were manned by people different than assigned on the watchbill that you approved.

For those of us that have commanded ships and submarines we know that that's not the norm for how we operate our ships at sea. Could you share with the court here your thoughts on why did we have a situation where so many changes to the watchstations took place on the 9th of February. I think that'd be helpful.

A. First thing Admiral, I would like to say that having 9 watchstanders out of 13, as you just stated, not in their designated spaces or assignment was not my standard. I can only surmise that factors contributing to this were actions that we have heard under testimony by my shipmates. That they took it upon themselves to provide backup to their other shipmates. Recognizing that men that were scheduled to have the afternoon watch, in some cases had been on watch that morning from the time the ship got underway at 0800 through the period of time we were on the Maneuvering Watch until such a time that they could secure and perhaps head to chow. I base that upon the testimony that I heard here in court, but want to make it clear to you, sir, that this is truly the exception and not the rule.

My signature on that--on this watchbill, Exhibit 41, is an order. And my crew did not execute that order.

Q. Yes. Now----

Questions by the President:

Q. Captain, why do you call it backup, when we have very few examples of additional watchstanders? We have basically a one-for-one replacement. This backup--when you give someone a smoke break is that backup?

A. Sir, that is not backup. The backup I was talking about, Admiral, was the condition where Petty Officer McGiboney sighted the fact that Petty Officer Holmes, if he had remained on watch that afternoon would have had watch essentially for the entire day. Petty Officer McGiboney took it upon himself to relieve. I'm not using that to offer it as an excuse. I'm quoting the testimony that Petty Officer McGiboney gave under oath and used that as an example of what my crew attempted to communicate to the court their method of providing for safe backup. That is an alert watchstander.

Q. Well, you call it backup and I would characterize it as a scheduling oversight. I mean, you have a change to a plan--the plan should be reflected in the watchbill. And when you have that many--you have that much ad hoc watchstanding on your ship what does it say about that discipline of the way you're going to build your reports, your situational awareness. It seemed almost ad hoc throughout the whole day.

A. Admiral, the correct action my crew should have taken that day should have been to raise this issue to the attention of the supervisor, to the Executive Officer, to the Chief of the Boat, and submit a formal watchbill change for my approval.

PRES: Okay. So, Commander, it's your testimony that the crew didn't carry out your order?

A. Sir, it's my testimony that 9 watchstanders were not in their designated or assigned watchstations per the approved watchbill that I signed.

Q. Would you agree that this is a training issue than that we have to address with the crew? That they be better trained so that they know that this is your directive and it's supposed to be carried out?

A. Sir, this is a deficiency that warrants training with the crew so that the crew fully understands the expectations and standards of the Commanding Officer, and is able to enforce that.

PRES: Thank you.

Questions by a court member (RADM Stone):

Q. We heard some comments earlier in the week, sort of some justification that perhaps it wasn't bad that 9 out of 13 personnel were not in their stations, but you said obviously that's not in accordance with your standard. Tell the court, in your opinion, why is it bad when 9 out of 13 aren't in the spots that you so designated? What kind of things happen because of that that doesn't meet your standard?

A. I can only speculate, Admiral. But the purpose of a watchbill is to assign specific individuals that are qualified for watchstations to a designated location. As you and I both know, it fosters team building. Now on this particular day, we were focusing on our efforts on two issues. One was the mission of that day, the distinguished visitor's orientation of a submarine cruise. And the second was my shipmates that were left behind inport to perform training at the Attack Center in the Naval Submarine Training Center, Pacific building, for the purpose of preparing those crew members for our upcoming deployment.

On this day 9 February, two watchbills were written. More actually if you include the Engineering watchbills; a Maneuvering Watchbill, which supported getting the ship underway, and also supported the ship returning to sea, and then the Underway Watchbill. It's my understanding that the coordination between these two watchbills was not as effective as it could have been, and, therefore, contributed to this problem where we had nine men

not in their designated spaces or assigned areas on the afternoon of 9 February.

Q. RADM Konetzni testified that he had shared with you that he thought you were perhaps too informal and also too fast getting ahead of your crew, those were a couple of things he mentored you on. When I look at this watchbill, is this a reflection of informality, in other words, running loose on the DV cruise with a watchbill that the message to the crew is "I'm an informal kind of Commander," so you can go with this? What about that standard and what are we to read into this informality that RADM Konetzni talks about as that relates to what we see on the watchbill on 9 February?

A. Admiral, I'd like to answer all of those questions, but that's a lot of information. If I could dissect your question item by item, I would like to, if you would please, restate that question and I'll write those items down.

Q. Right. RADM Konetzni had talked how about he had mentored you about that he thought you were informal and that you were too fast for your crew at times, two areas that he thought appropriate to mentor you on. So, as I look at the watchbill and I see a watchbill on the 9th of February that has nine out of 13 folks out of position, and we'll talk a little later about the unqualified nature of one of the members in Sonar, as I look at that, I say to myself, is that a reflection of this informality that RADM Konetzni mentored you on? What are your thoughts on that and in fact, do you agree that that's reflective of an informal Commanding Officer?

A. Sir, I see this as a five part question. When RADM Konetzni stated under testimony that he thought I was informal based on observing me in the Control Room and that I was moving too fast, I thought he had the wrong Captain. I was surprised to hear those words coming out of the Admiral's mouth and I'd like to explain this, if I may?

PRES: Certainly.

WIT: I love RADM Konetzni as if he was my father. He has mentored me and was one of the reasons that I chose to stay in the Navy, and I don't want to

digress here, but I'm trying to make my point. I worked for a very demanding Commanding Officer in my first tour of duty. He was slow to praise, but quick to criticize. When he was relieved and the second Captain came in, he demonstrated some confidence in me as a junior officer and sent me to my Engineer's exam at Naval Reactors.

Following that exam, I went to the Naval Academy and met RADM Konetzni for the first time when he was Deputy Commandant of midshipmen. When he found out that I passed my Engineer's exam, he came up, he slapped me on the back, he said, "Come into my office and let's talk for an hour." He didn't say an hour, but it ended up being an hour, that was the first time ever in my career, sir, that a Navy Captain, a submariner that I didn't know, took an interest in me, and that began that relationship. It further developed when I was an Executive Officer on the SAN FRANCISCO when I met him when he was Commander of the Submarine Group in Yokosuka, Japan. And, I was pleased to find out that I would take command of a submarine under his command as the Pacific Fleet Commander, so I've great respect for RADM Konetzni.

And, when he spoke those words and said that I was informal and that I was moving too fast, it hurt, and coming from a man that I admire and that I respect, I believe that I would have remembered those words had they been spoken to me. Now, perhaps he communicated that to me by other means, and Admiral, maybe I just didn't get it, and if that was the case, that's unfortunate.

Questions by the President:

Q. Captain, is it your testimony then that you didn't hear RADM Konetzni say you're informal, you were being a bit informal with your crew?

A. Admiral, I don't remember if he said that. As far as having nine of 13 men out of position, Admiral, I've made that clear, that was not my standard, and I was very surprised to find out that that was the case, that the court had identified that deficiency. Do nine of 13 men not in their designated watchstations reflect poorly upon me as a

Commanding Officer? Sir, you bet that does, and that's wrong, and I'm telling you that that is not my standard, and I know that wouldn't happen in the Engineering Department, for those of us that are nuclear trained because we understand clearly the oversight that exists there.

And, I'm not saying that there should be a double standard, one for the propulsion spaces and one for the ship forward, but I do know that the watchbill forward, under the guidelines of the Standard Submarine Organization Manual, does not have that same rigid adherence. And in a submarine, Admiral, sometimes flexibility is warranted to afford an individual to attend morning training, but I'm not offering that as an excuse. I signed that watchbill, Exhibit 41, and that was an order from me, and my crew didn't comply with that order and they violated my standard. I was let down there.

I think my thoughts on this issue, the fourth part of your question, had been addressed, if not, then I'll continue. But finally, do I agree that this is informal, and that's it a reflection of me, as a Captain, and my standard, no, sir. I was not informal, and I made it clear, having approved that watchbill, relying upon my subordinates, who provided me with that information, that I communicated clearly to the crew that this is what I expected.

MBR (RADM STONE): That answers my question on that particular issue. Related to the watchbill, and we're going to talk about that next, is the under instruction watch that was not continuously monitored in accordance with SUBPAC requirements in sonar. And the reason this is important, and it's linked back to the 9 of 13 personnel out of position, is it gets at the themes that we've heard, talked a lot about on GREENEVILLE the last 12 days--about safety, efficiency and backup. The 9 of 13 personnel out of position doesn't meet the criteria for proper backup, it has safety implications, efficiency we can discuss as well, but the under instruction piece also gets at those same three themes.

Questions by a court member (RADM Stone):

Q. Is there a standard, onboard GREENEVILLE, related to allowing a Sonar Operator, who's under instruction, to sit that watch with out the continuous monitoring that's required by SUBPAC, and do you approve of that?

A. I'll answer the first question first, Admiral. Is there a standard on the USS GREENEVILLE that allows for an under instruction watch to stand that watch, which is contrary to the COMSUBPAC and Submarine Force requirements? Sir, that wasn't a standard, that was a practice. That practice was wrong. I was not aware of that practice, and under testimony of the Weapons Officer, LT Van Winkle, surprisingly, neither was he. And for a practice that predated my arrival in command, March 19 of 1999, that practice, Admirals, was wrong, and should have not have been permitted. Had it been brought to my attention, the attention of the Executive Officer, and the attention of the Weapons Officer, who clearly said under testimony, he would have rectified that. But I'm surprised that it took 2 years and a horrible tragic accident to raise this issue to my attention, and to the attention of the Force Commander.

Questions by the President:

Q. Well, Captain, it was on your boat. You speak frequently with your Chief of the Boat, correct?

A. I do, yes, sir.

Q. Okay. We've heard lots of testimony about how open you were from criticism from the crew, or recommendations, or suggestions. It was clear your sonar folks new about it, it was clear your Chief of the Boat knew about it. You had frequent conversations with your Chief of the Boat, why didn't your Chief of the Boat raise that issue with you, in terms of your nonstandard practice?

A. Admiral, I can't tell you why the Chief of the Boat didn't raise that to my attention, but I do know that the practice was wrong.

MBR (RADM Sullivan): I'd like to follow-up, Commander, on that----

WIT: Excuse me, Admiral, sir, did I answer your second question, the second part of that question?

MBR (RADM STONE): Sure, go ahead and answer that, then RADM Sullivan will jump in with a follow-on to that.

WIT: You asked--the first was, was the under instruction watch a standard onboard my ship, and I told you that it was a practice, that, that was not in keeping with the standards that I knew them to be. I don't know that I fully understood the second part of your question, Admiral, and what more I would need to explain.

MBR (RADM Stone): I'll have some follow-on to that as well, but in the meantime, I think RADM Sullivan----

WIT: Yes, sir.

Questions a court member (RADM Sullivan):

Q. Commander, I just wanted to follow-up on what my two other court members are discussing, the watchbill in practice. I've had your job. I understand what you see on a daily basis. A submarine crew is a small crew, it's a 150 or so individuals. You get to know them, especially a Commanding Officer who's been in command for 2 years. You know their habits, you know their moods, and the fact that you can sit there and tell me that when you walked into Sonar, or any other place, and see that someone you know is not fully qualified on a watch, and that doesn't register on your scope, I'm really having a hard time with that. Can you shed some light on that?

A. Admiral, on that day when I walked into Sonar on the two occasions, I saw Seaman Rhodes and I saw Petty Officer Bowie. I also had the opportunity during this EASTPAC, because I knew that Seaman Rhodes was a new crew member, to spend time in Sonar. Now having the A-RCI installation and having Senior Chief Miller with us during our transit to Alaska, it afforded us the opportunity to deploy a

towed array and operate with a sonar shack fully manned.

So when I walk through Sonar and I see four men sitting in chairs and I see the Sonar Supervisor behind them, I don't pause to ponder and question, "Is this an under instruction watch? Is this a qualified watchstander? Is this man only qualified broadband and workload share, but he's not an advanced Sonar Operator?" Admiral, when I sign that watchbill, it is an order from me. I am fully aware, under most circumstances, but not all, when I see an individual that I know is a new crew member standing a watch. That if he is brand new, and I'm in the lower level of the Engine Room, and I don't see a qualified over instruction nuclear training petty officer standing by, I know that, that's wrong. And I don't ever recall ever seeing that, where I had an under instruction watch without a qualified over instruction watch back aft. And, sir, truthfully, I sit here before you, telling you that I don't recall ever seeing an unqualified under instruction watch in Sonar with one Broadband Operator. I never recognized that before.

Questions by Counsel for the Court:

Q. CDR Waddle, did you read the--your Plan of the Day for the 9th of February?

A. Sir, I read the Plan of the Day.

Q. And in the Plan of the Day, doesn't it list SN Rhodes as being "dink"----

A. Well, sir----

Q. Which means delinquent in his qualifications?

A. Sir, I look at the Plan of the Day for the schedule. I did not look at the Plan of the Day for the paragraph which showed delinquent watchstanders. I don't sign the Plan of the Day, I don't approve the Plan of the Day.

Q. At the bottom of the Plan of the Day, doesn't it say, in bold type, all hands are responsible for the contents of the Plan of the Day?

A. Sir, can--could we call that up as an exhibit----

Q. Certainly.

A. If it exists.

CC: Pull up the Plan of the Day please.

[Bailiff did as directed.]

A. To answer your question, on the bottom of Exhibit 3, it says, "All hands are responsible for the contents of the Plan of the Day."

Q. And you're part of the GREENEVILLE crew, you're the Commanding Officer.

A. Yes, sir, I'm part of the GREENEVILLE crew and the Commanding--was the Commanding Officer.

Q. So you're responsible for reading the Plan of the Day, is that right?

A. Sir, I am responsible for reading the Plan of the Day.

Q. So you had the Plan of the Day, which had SN Rhodes as being delinquent, and you had this watchbill put before you, which listed SN Rhodes on the watch, correct, in sonar?

A. Sir, I signed the watchbill, Exhibit 41, and approved it. I rely upon my subordinates when they provide me with the watchbill to ensure its accuracy. In command, when a piece of paper, and I know the Admiral's know this, goes to a Commanding Officer, it generally alerts the subordinates in that they need to provide attention to detail and ensure it's correctness and accuracy.

That has been a standard and an expectation that I have come to know and that I have supported as a junior officer, Department Head, Executive Officer, and have come to expect as a Captain. In the more than 1 year period that I have served with CDR Pfeiffer as my Executive Officer, and Master Chief Coffman as my Chief of the Boat, I cannot recall a single time where I have had an unqualified watchstander listed on a watchbill, knowingly.

Q. The problem I'm having with this is, there are a number of signatures on the bottom of that watchbill, and a number of those people are responsible for SN Rhodes--knowing SN Rhodes qualification status. And everybody signed off on that watchbill, and my sense is no body knew SN Rhodes' status, the correct status. What does that say to you about your crew, the people that were responsible for knowing SN Rhodes' qualification status?

Counsel for CDR Waddle, party (Mr. Gittins):
Objection. The Weapons Officer clearly testified, in hearing, that he did know that Rhodes wasn't qualified and he just missed that on the watchbill. That individual with the cognizance over that department knew he was unqualified, didn't catch it. Any other implication is improper and calls for CDR Waddle's speculation.

CC: I think we should hear his speculation on this, sir.

Questions by the President:

Q. What I want to hear, is that--I want to hear is this an indication of the standards on GREENEVILLE. So we have a number of people that signed this watchbill, it's all indicative of the standards that are on this boat, in terms of how they enforce force-wide standards. So I want to hear the answer. Maybe you can answer the question that way, Captain.
A. Sir, it was wrong to put SN Rhodes on this watchbill, Exhibit 41, listed as a qualified watchstander, it was wrong.

PRES: RADM Stone?

MBR (RADM STONE): Yes.

Questions by a court member (RADM Stone):

Q. Continuing on, and the reason we're spending some time on this, is it's a very important point.
A. Admiral, I agree with you.

Q. And, as you so stated, is wrong. What is also disturbing, is that over 2 years there's a practice going on, on this watchstation, and the Commanding Officer is unaware of that.

Now the fact that you have a command that is not very large in terms of number of people--number of people and the submarine community prides itself on knowing each other, but yet it is also now reflective of a command where you've got a loose organization with regard to complying with SUBPAC's requirements for qualifications, and Department Heads, and all the way up to the CO saying, "I didn't know we were doing that," is disturbing. And it goes along the same lines as 9 out of 13 folks out of position, because the underway watchbill, would you not agree, is the blue print for how ship for boats are going to operate when they go to sea on any particular day. Would you not agree with that statement, that it's the blue print for how we're going to operate our ships at sea?

A. Admiral, I agree that the watchbill is an order, in this case, signed by me, giving clear direction to my subordinates, that I expect the men that are listed in each column to comply with that written order.

Q. Now the other question I have is you signed this watchbill on the 9th of February, you did so knowing that roughly a third of your crew and Wardroom was being left behind ashore for training. Is that correct?

A. Sir, I signed the watchbill with full knowledge, understanding, and satisfaction knowing that I was taking to sea, that day, 9 February, the number of qualified watchstanders I needed to support the 7 hour Distinguished Visitor cruise.

Q. Exactly. When I look at the number of folks that you left behind and put myself in the position of having someone come to me and say, "we're going to leave about a third of our folks behind for training," one of the first things I would think of is, "well then I better pay attention to the watchbill because this is not the whole crew of the GREENEVILLE I'm taking out there, so who is standing in what position, what their qualifications are."

It's natural for a Commanding Officer who's concerned about increased risk and making sure we have the right balance that we go to sea, to take that into consideration when he signing the 9 February watchbill. Is that also in agreement with how you do it?

A. Yes, sir, I agree with that, and I'd like to add, if I may please----

Q. Well, I'd like to ask a question----

A. Yes, sir.

Q. When you address that, when you answer.

A. Yes, sir.

Q. So since we agree on that----

A. I agree that----

Q. What's baffling to me is, knowing you're leaving a third of your officers and crew ashore, no tough questions were asked down the chain, "is Rhodes qualified? What's the team look like? Hey, XO, hey Senior Watch Officer, I'm concerned that people stay in the right position because we're not going out with our full team." There's no safety, efficiency, backup leadership on 9 February, from the Commanding Officer who's approving this, to make sure that crew is safe.

And so I'd like you to answer--your thought process on safety, efficiency, backup, on 9 February, with a third of the crew ashore, 9 of 13 folks only stood in the positions you designated, and you've got an unqualified watch. That, to me, does not meet the standard of yours. And I'd like to hear what your thinking was when you signed that watchbill with those things in mind?

A. Admiral--and that was a lot that I just heard there--if I understand, you want me to answer the question, my thought process on how safety, efficiency, and backup were incorporated into this--this watchbill--and how my crew came to the decision to leave approximately a third behind that day for training. Is that correct, sir?

Q. How you factored in the fact that you've got a third of your folks on the beach?

A. Yes, sir, I'm ready to answer that.

Q. Sure.

A. The first thing, with the watchbill, when a watchbill is presented to me as Captain, I look at the watchbill in a general overview. I don't dissect it, Admiral, and go down through the watchbill item by item, man by man, and I think RADM Sullivan will understand where I'm going with this. I considered two men, two men key on the maneuvering watchbill and on my underway watchbill, and that's my helmsman and my Throttleman. Those are two men that I am particularly concerned with, because they have direct impact on the maneuverability of the ship. And how these men steer their course and answer propulsion bells. But that's not to say that other watchstanders on that watchbill aren't important, they are.

So I look at who my key supervisors are in these positions. Who's my Sonar Supervisor, who's my Navigation Supervisor, if I have him onboard, and my Assistant Navigator, who are my Quartermasters? On this day, Admiral, I did not see SN Rhodes name on that watchbill, nor did I see an under instruction by his name. It's not there. It's not there on Exhibit 41. And, Admiral, I didn't read the Plan of the Day, section that day, that identified Rhodes as delinquent. If I had known and recognized that Rhodes was delinquent, and that his name was on this watchbill as a qualified watchstander, I guarantee you I would have fixed that.

Further, how does this play into the role of safety, efficiency, and backup. I hope that I shed some light, on my thought process as a Captain, on what I do when I receive a watchbill. I look at those key things that I consider important to me, and I rely upon my subordinates to do their job; to ensure that they give me a watchbill that is accurate, that reflects the qualifications of the men that are required to sit those stations. And the fact that we had an unqualified watchstander listed in a position for qualified man is wrong. It's wrong.

How did I justify leaving a third of my crew behind? My Executive Officer, LCDR Pfeifer, and the Chief of the Boat, along with the Department Heads that you've heard under various testimony the past 11 days, came up with a plan which would support our initiative to leave other crew members behind so that they could participate in classroom training to prepare them for the upcoming deployment. It was a decision that my command's leadership made that I approved, to allow those men to stay behind.

When the watchbill was provided to me, and the officer watchbill was provided to me, I looked at those two. I determined that I had qualified men that were capable to take the submarine to sea that day and provide for the safe operation of that submarine, continued to enforce my standards, and execute that day's mission, which was the Distinguished Visitors trip. I was confident we would be able to do that, we've done it before.

PRES: Captain?

WIT: Sir?

Questions by the President:

Q. Actually, CDR Waddle, your Chief of the Boat signs the watchbill and your XO signs the watchbill right?

A. Admiral, that is correct. The Chief of the Boat's signature is on Exhibit 41, and the Executive Officer's signature is also on Exhibit 41.

Q. Okay, let's go back to RADM Stone's question then. You have these-this mantra of efficiency safety back-up, that your crew told us about all last week and we heard a lot of that. We also talked to your Chief of the Boat about, specifically about some of his watchbill oversight. So, from the XO's standpoint and from your Chief of the Boat's standpoint, I would expect then that these were important things for that those two individuals would have that same sense that you have. And if they do, why didn't your Chief of the Boat then do what RADM Stone was asking.

What was their compensation for--what was their lookout, what was their backup for you? They presented you a watchbill in a process that goes through a change to make sure that it's thoroughly vetted, okay? So how did they consider the third of the crew? How did they consider the amount of people that were out there?

I mean we saw numerous examples, we saw when you wanted to do angles and dangles you replaced the Helmsman with a guy that was more qualified. And it bothers me when I hear about well, we were doing a lot of training. Well, why didn't you take the opportunity to train somebody different? But where is the Chief of the Boat? And where is the XO then in this mantra of back-up, safety, of efficiency, when it comes to supporting you in producing a watchbill that will provide for a safe conduct of a mission on GREENEVILLE on the 9th of February?

A. Admiral, I can't tell you what discussions took place between my Executive Officer and the Chief of the Boat.

Q. But they were part of the approval process to send a third of your crew onboard off--shore, on shore for training, correct? So they knew of that impact. They had that--were cognizant of that decision. They participated in that decision. They also participated in these same decisions on the watchbill, so I'm trying to figure out what I can figure of this conflict of what you said your command was all about. And I would hope that your Chief of the Boat and your XO would have the same sense, the same mantra, the same feeling.

That's what they would do when they looked at things. So, can you explain why you get a watchbill with these--this type and amount of turmoil in it, when it's produced as a product where your two key players on the boat are responsible for when it comes to you?

A. Admiral, I'm can't explain it, but I know that when I first heard RADM Sullivan say that nine of thirteen watchstanders were not in their designated spaces, I didn't believe it. And I know that counsel, for me, didn't believe it either, because she said, "I don't see it". So I asked for the

watchbill and I took a look at exhibit 41 and I highlighted those names, and the Admiral was correct.

There were nine out of thirteen that weren't in their designated space. It was not effective planning. I don't refute that and I would look at the maneuvering watchbill and put the underway watchbill beside it, if I were the Exec--I've done it in the past--and see what type of watch rotation was required. But I also had a very good and a very strong Command Master Chief, Chief of the Boat when I served as an Executive Officer, who was a good planner, and he was an excellent administrator. And he did things very, very well, which made my job as an Executive Officer easier. We heard under oath the Master Chief's testimony. He told the court, "hey, I'm a great executor, I can carry out the plan, but I'm not a very good administrator".

And so I know based on his testimony that that may have placed more burden on the Executive Officer and the Department Heads, subordinate to the Executive Officer, to come up with a watchbill, maneuvering watch and at sea watchbill, which made sense. Admirals, it's obvious that the plan was not efficient, because the plan didn't work. The plan ended up with nine men in the afternoon watch not in their designated assignments.

Q. But this goes then to your team's support for the ship and for the Captain. The team support was deficient then in back-up, efficiency, and safety.
A. Admiral, I respectfully disagree with that, that particular comment, and I'll explain why. The watchbill on 9 February was not reflective of a watchbill--let's say, of a crew--that has worked up through a Pre-Overseas Movement period that is waiting to take the ship out for a six month period. As RADM Sullivan and I both know, when you're preparing a crew for a major inspection, a major operation, you look carefully to try to provide balance amongst the three different watch teams. You pick the strong Throttleman that might perhaps provide some back-up to the mediocre average Reactor Operator, and then maybe a little bit stronger

Electrical Operator when you're working on that maneuvering team.

On this particular day, Admiral, we didn't take a crew to sea that was taking the submarine out for a pre-overseas movement or for an inspection. I took my ship to sea with a crew that was qualified to execute the day's events. And when I looked at that watchbill, Exhibit 41, I was satisfied when I signed it, sir, that I had qualified men, in the right positions, who had the right balance to perform that job that day. That's not to say that if we needed to move a person from one position to another that we couldn't do that, because the operations on that day dictated that I have qualified men. I don't refute the fact that Seaman Rhodes wasn't qualified and was sitting in a qualified watchstation. That was clearly wrong and it was also wrong--and I'll make it clear to the court--that nine out of thirteen men were not in their designated spaces, contrary to the approved order that I signed. And I consider that to be the exception and not the rule for the way that my submarine did business.

Questions by a court member (RADM Sullivan):

Q. Just one final question on this watchbill. Early there were three different watchbills going on at the same time. Every submariner knows what you're doing. You had a maneuvering watch, a modified piloting watchbill and an underway watch. And my recollection is, you're not even required to sign the underway watch, you're required to sign the maneuvering watch and the piloting watch. Did you ever have those three watchbills in your hands at the same time to cross-check, to do the cross-checking that you just described to the court?

A. I don't remember, Admiral. I know that you cited three but there are, in fact, more watchbills than just the three. There's the engineering watchbill, there is the rig for dive watch assignments, of which the ship's Diving Officer brings forward and I sign. And I recall specifically reviewing rig for dive with LT Pritchett that day, but I don't sign the engineering watchbill. And I did sign the ship's underway watchbill. That was a practice that I inherited and

I understand that the SSORM lists the Executive Officer as the approving authority, but has transpired in my command is that I'm very interested to know who my Helmsmen are, who my Throttlemen are. So I made a change and I became the approving authority for that watchbill.

But, to answer you earlier question, sir, I didn't have all watchbills side by side when I approved this watchbill, nor did I do cross-checks to see how personnel would move from a maneuvering watchbill to the underway watchbill to support a modified piloting party--a piloting party. I didn't do that. I relied upon my subordinates to do that part of the planning, which would permit me to maintain the bigger picture. And I'll add that in the two years that I--almost two years that I was in command, I didn't see problems with watchbills or difficulties where personnel were not in their designated or assigned spaces. I didn't see that, sir.

Q. But to emphasize what RADM Stone, how often do you leave a third of your crew in? This is not typical day.

A. No, sir, that's not a typical day, and I can't give you exact numbers but I know that we did it on one, perhaps maybe two other occasions, where distinguished visitors were taken to sea. And in those periods we did not leave--I can't tell you how many personnel that we left behind, but I do know that we left men inport to either participate in training or, Admiral, to give them a break. That was in keeping with RADM Konetzni's standard of people and that's what we would do. But we always insured that we took qualified men to sea, to man the required watchstations.

Questions by a court member (RADM Stone):

Q. Just to follow-up on RADM Sullivan and also the question that was asked earlier here about the watchbill. And that is, once you sign the watchbill as Commanding Officer, you own it. We all know that as Commanding Officer when you sign documents we own what's in that document, and it's incumbent on us to have some methodology we're using to insure we're not just giving our signature away, that we're checking on it. So, in this case with Rhodes, I'm interested in what methodology are you using onboard GREENEVILLE to ask those questions, to make yourself aware of--whether it's through the POD that was mentioned or asking your Senior Watch Officer the question, "Hey, Senior Watch Officer, what are you doing to ensure that I don't have any unqualified people here."

In other words, there's some accountability for you to have some system in place in which you're checking that, otherwise you're just giving your signature away. So, could you explain what your using then as your methodology to insure that checking on what the standard is and in viewing that in your people?

A. Yes, sir, I will attempt to answer that. My methodology I think is clearly demonstrated on the bottom of exhibit 41 here. By the fact that I have, at least at a minimum, six signatures before my final signature goes on that piece of paper. I relied upon the department heads, the Chief of the Boat, and the Executive Officer to give me a watchbill that was accurate, correct, and reflected the qualification of the individuals on that sheet.

Did I have a procedure in place, which provided for cross-checking of the watchbill and its preparation? Did I micromanage? No, sir, I didn't micromanage my crew. I empowered them to do their job. In my Stateroom I had a picture of Theodore Roosevelt. It was given to me by a good friend, who flew out for my change of command. And the words essentially, I'll paraphrase them said, the mark of a good executive is a man who picks good people to carry out his tasking and enough common sense to not

meddle in their affairs, while they carry out their tasks.

I didn't micromanage the watchbill, but I will say that my periodic spot-checks of the watchbill and whether or not it was working is if I needed to speak to a petty officer. If I needed to locate a Chief, if I needed to find an officer, I knew where to go to look at the watchbill to find that individual or ask his location. Was he on watch, was he sleeping, was he working out, where could I find him? And that was one of the methods with which I could use to spot-check the watchbill, not knowing that I was doing it at the time, but that's one of the things that I would do.

The rig for dive watchbill, it was something that I looked at carefully as well, because water tight integrity of the ship is something that the submarine force has made mistakes over the number of years, where you get an inexperienced petty officer, who is submarine qualified, to do the initial check, and then maybe a junior officer to follow it up. And so I always made it a point--I didn't say always--I made an effort to communicate to my Diving Officer the importance of having some balance there. So that we had an experienced officer with maybe a not quite experienced petty officer, and the same thing was true in the watch teams. When I take a look at this watchbill, as I did on a number of occasions, I would look to see if there was balance. If I knew that I had an Officer of the Deck that wasn't particularly strong--and what I mean by that, is he was newly qualified and didn't have the experience--the Chief of the Boat and the XO took great effort to insure that we gave him a good Diving Officer, a strong Chief of the Watch. So that a young Officer of the Deck, one that didn't have the experience such as the Engineer, my Weapons Officer and Navigator would have some balance in that watch team, and I know my subordinates looked for that.

Admiral, I don't if I answered your question fully, but I'll tell you that I didn't have a checklist. In the Navy's effort to reduce the paperwork, instructions, and processes that we have, I didn't

make an independent checklist. I didn't think it was necessary to have something in place, but I think there're some valuable lessons learned that have come out of this accident. And the watchbill is one of them. It's a message that needs to be communicated to not only the submarine community, but every other community in our Navy. That it's not just a piece of paper, it in fact is an order, whether it comes from me as the Captain or the Executive Officer if he chooses to be the approving authority on another submarine. And the crew should comply with it. It's not an option. And when the crew doesn't measures should be taken to provide adequate administrative support to insure the process works. Admiral, in this case the process broke.

MBR (RADM STONE): I have no further questions. And, just to note, that that's not a new lesson. Thank you.

WIT: Yes, sir.

Questions by the President:

Q. Let's go to a different area here. We've taken testimony from a number of folks, Chief of Staff, SUBPAC, your crew, on the day of 9 February that you went out, and the submarine--your submarine went to test depth, and it exceeded the classified speed limits for submarine operations for distinguished visitor embarkations. Why did you do that?

A. To fully demonstrate the capabilities of the submarine, Admiral.

Q. Would they know any better that--would they know the difference between the classified depth and the unclassified depth? Is it that significant that they have--and what's the value to the DV'S in terms of actually taking the boat to that particular depth?

A. There's something special about that number. And in this particular case, I didn't think about it. I didn't put the fact that I was taking distinguished visitors to that particular depth or that particular speed--it wasn't in the forefront of

my mind as an intentional act to compromise information.

But I do know that in demonstrating that act to the visitors, that it's something special to say that you have observed the operational abilities of this ship. I'm not trying to give you an excuse; I didn't think about it, sir.

Q. Well, it's classified, right?

A. Yes, sir, it is.

Q. And, it's a classified manner to exceed a certain depth, which I recall is 800 feet and 25 knots. So, are you just--you don't think about protecting classified matters?

A. Admiral, I didn't think about that issue. But yes, sir, I think about protecting classified information. And knowing that anytime a submarine crew embarks visitor's, that they are going to see information other than a ship perhaps achieving a speed greater than 25 knots or going deeper than 800 feet. They have access to indications, they have access to information unknowingly, they may not recognize or fully understand what they see, but Admiral, there are those that embark on unclassified distinguished visitors cruises that do see classified displays. Such as the fire control displays that we showed in closed session. Those displays were clearly in full view of the distinguished visitors that were in the Control Room at the time preceding the collision.

Q. But, there are no specific guidelines, so it's just a habit of yours then, if it's classified, that you can choose, Commander?

A. No, sir----

Q. No, you can choose that--you can violate your guidelines on classified material because you feel it's important to show the DV's even though you have guidance not to do it. The full operational capability or envelope of a U.S. Submarine?

A. Admiral, I made a decision to take the submarine to test depth and to operate the ship and demonstrate its full capabilities. I did not think

about exposing distinguished visitors to classified information. That was a mistake.

Q. Have you done it before?

A. Yes sir, I have.

Q. You didn't think about it then either?

A. No sir, I did not.

Q. Did you think back on why you're doing something like that? I mean, it was a deliberate act, something you did to demonstrate to DV's, you had done it before. So obviously you had to consider why you were doing it? Now, didn't--how did you reconcile that with the fact that it's classified.

A. Sir, I didn't--I didn't reconcile that knowing fact that it was classified, that it was an issue. There is something special about taking the ship to its deepest depth capability. I was demonstrating to the distinguished visitors where our submarine is wonderful engineering pieces of marvel can do. The same thing is true with the large rudder turns. If you order a full bell at 10 knots, it's like watching the grass grow. But, if you order a full bell at a speed of 27 knots, excuse me at a speed of 25 knots, your guests get a full understanding of the impact and the capability of the ship.

Q. Another conclusion would be that you just give them the double E ride--the E ticket ride at Disneyland on a submarine?

A. No, sir, I'm not trying to give anybody a ride or a thrill. I want to clearly demonstrate to the distinguished visitors what the warship and what a training crew can do. That was the intent of those of those acts.

Q. Tell me about deep water samples on GREENEVILLE for DV's?

A. Deep water samples. When the submarine was operating at test depth, I asked the Torpedoman to collect salt water and put in oil sample bottles to commemorate the event. And, I would give these water samples to the guests as a memento to provide them with something that they could remember their tour and their embark. On those bottles, we would

put the GREENEVILLE sticker and a statement that they've been at test depth and perhaps a date.

Q. So, it's a correlation between their visit with a bottle of water and the test depth of the ship, something that they're not likely to forget?

A. To commemorate the event along with a signed photograph I would give them, sir.

Q. But, they're not likely to forget that they have deep water samples from a classified test depth of a U.S. Submarine? They're not likely to forget that number?

A. Sir, whether they're likely to forget or not, I can't speculate. But I do know that the bottle of water--salt water with a GREENEVILLE submarine sticker on it was to serve as a reminder of that day's event. Of their time onboard the ship, where they had exposure to the submarine ship.

Q. And a reminder of how deep they went. So, when they have it--I assume that when they have it on their coffee table, then other friends come over from who knows where and they ask about that. They explain what it was. And, they'll tell people about the test depth capability of U.S. submarines. You don't feel that you should safeguard that information, Captain?

A. Sir, I can't speculate what the visitors would do or what they wouldn't do with the bottles of salt water.

Q. Did you give--tell me about the memento's you gave your DV's? You give them styrofoam cups that were crushed at depth?

A. On this particular trip, sir, I don't recall if we had given the distinguished visitors styrofoam cups or not. But, I do recall during a family cruise where we took crew members families to Lahaina, those that have flown in from the mainland, that some styrofoam cups or coffee cups had been put in a mesh bag then, I don't remember the area, but it was exposed to submergent pressure such that as the boat went deeper, the styrofoam cups would crush and afforded the kids the opportunity to write their names or the date that they had been onboard the

submarine so that when the thing got squished, it was a memento that they could take with them.

On that particular day, 9 February, Admiral, I don't recall giving any of the distinguished visitors some styrofoam cups.

Q. On your previous DV embarkation's underway did you give styrofoam cups?

A. I don't recall sir, but I wouldn't be surprised if we did.

Q. Can you explain, you're giving the DV embark now, can you explain to me how you reconcile a casualty maneuver? In other words, you're performing a casualty maneuver and emergency blow. I understand it to be a casualty maneuver or emergency maneuver--it's characterized that way. Is that appropriate to perform a casualty or emergency maneuver with distinguished visitors, people that are not part of the crew?

A. And you're speaking of the emergency blow, sir?

Q. Yes.

A. The appropriateness of that was a decision that I made with the support of my crew, the Executive Officer, when we put that day's events or that schedule together. The emergency blow is important in my mind as an act where we could demonstrate the capability of the submarine to ascend to the surface in the event a casualty flooding, for example, arises. It's well understood that two submarines were lost because of issues concerning the SUBSAFE procedure and as a result sometime thereafter, the emergency blow system was installed to provide for safeguards for the crew member's. So Admiral, I would say that when media is taken to sea, when special interest groups--educator's as RADM Konetzni stated are taken to sea, this is but one evolution that the submarine can perform, which again demonstrates the capability of the ship. That was the purpose.

Q. Well, you need to reconcile that a little bit with me. My understanding is that on a MRC requirement, it's once a year requirement for a submarine to do that, is that correct?

A. Sir, I do not have the unrestricted operation maintenance requirement here. If it could be presented as an Exhibit I could confirm that fact.

Q. I think we took it as testimony earlier last week, that it's required once a year?

A. Sir, then--based on the testimony that was taken, if that information is correct, then I would agree that annually is the requirement. But, I don't have that in front of me. I can't confirm that.

Q. Well, I was going to say that it indicates to me the Navy's value of doing emergency blow. In other words, it's required to be done once a year, to make sure all the systems and subsystems that support emergency blow operate properly. So that you, as a Commanding Officer, assured that if you have to emergency blow for a reason, that the systems will work. And, so the Navy's ensured by once a year check of this to validate the whole process. I don't quite understand the training value of emergency blow nor do I understand--because it's been described to me that when you do an emergency blow, it's an irretrievable process. In other words, you are no longer in control of your submarine, it is going to go to the surface come hell or high-water. So, you're performing a casualty maneuver which I find unusual because see--okay, I don't--I don't drive submarines, I drive airplanes. But I know I'm not going to take a DV up and spin an airplane or do an engine out or auto rotation in a helicopter because that may be irretrievable--puts a lot more risk in the process.

So, you have 16 DV's onboard, you're the Commanding Officer and you choose to regularly perform an emergency blow as part of your DV embarks. I think you did one down in Santa Barbara. So, I'm trying to understand if it's only required once a year to validate the systems in that ship to make sure it's going to safely work to support the submarine and its crew to get safely to the surface. How do you

reconcile doing that consistently with DV's onboard? When its been characterized as a casualty maneuver?

A. Admiral, the emergency or varying forms of it can be performed for a number of reasons. RADM Sullivan in his cross of some the crewmember's made it clear, that it may be a static blow that follows say a certain repair or some form of maintenance that might be performed on the system to confirm its operation. In this case, when we took the distinguished visitors to sea, I can't tell you if the emergency blow was performed as a retest for maintenance. I'm confident it wasn't because if we had performed maintenance on the air system of my submarine, I would have known about it.

But, as I stated earlier, it was a process that demonstrated to the distinguished visitors the ship's capability to recover from a casualty. How did I reconcile performing this particular event? Again, it was an event that I was comfortable and confident that my ship could perform, the system would operate as designed and it wouldn't end up having to repair anything prior to my schedule underway the following Monday.

Chief of Staff asked me about that, that evening of February 9th, when he was in my Stateroom. He said you know Skipper, it looked like you had a great handle on things and I didn't question you performing the emergency blow because I felt you knew what you were doing. Now, when I was in command of SAN JUAN, I wouldn't have done it. I would've been afraid that my auxiliary men would have to fix something. A mirotta valve, parker check valve, knocker valve, something along those lines. We had just completed a 4 month selected restricted availability and I knew that my air systems were tight, were fully operational and capable of performing this evolution. I did it to demonstrate to the distinguished visitors what the submarine capability is during the course of an emergency ascent to the surface.

Q. But, it's your decision, not the Chief of Staff decision?

A. No sir, it was my decision. And,----

Q. Okay.

A. And if I may, and again, I don't have the information here and I'm relying upon some memory here from my days as a Damage Control Assistant back in 1983 to 85 and maybe RADM Sullivan can validate it, but it used to be performed more frequently. Was that an excuse for that day, no sir. I performed and had my crew perform the emergency blow to demonstrate to the distinguished visitors what that system could do and to show them that.

Q. Okay, well let's go back because I don't think you quite answered the question for me. How do you reconcile then the safety of performing an emergency maneuver that's been described as irretrievable? You're going to go to the surface, you can't do anything about it, if there is anything up there, you're going to come to the surface, how do you reconcile the safety then the process of being more safe? It's a DV evolution, it's not a casualty maneuver for you. It's a demonstration as you characterized it, so how do you balance the safety of your boat, okay, and your crew, and those DV's, and doing an emergency blow regularly on DV embarks with what you're about to go do? I mean what's the balance there, is it just because it's fun? How do you reconcile that?

A. No, sir, it's not fun. I'll answer this question, I will get to it. I had a number of new crew members onboard, relatively new, who had gone to sea, some for the first time. I can't tell you who on this particular list, without other paper work, had never been to sea before.

Q. I wouldn't expect you to know that.

A. I know that, sir, I'll get to the point. But every time I took the submarine to sea, knowing that I had new crew members, I did a couple things. We rigged the ship for deep submergence, we took the ship to test depth. I operated the ship at a flank bell and I did angles and dangles. I did those three things, to demonstrate to my new crew members what the submarines capabilities were. Some of the guys were scared, first time going to sea, understandably. And I couldn't recall who on this particular day, 9 February, that I took to sea that hadn't been to sea before. But we went to test

depth, we did angles and dangles, we operated at flank bell, so my crew, the new guys, got that benefit. In conducting the emergency blow, it also provided my crew with training value and benefit, and that was another reason for executing it, not just for the amusement of distinguish visitors.

Q. Well can I go to that point?

A. Yes, sir.

Q. When you were doing angles and dangles, you took your Helmsman off, and you purposely brought up a more experienced guy to do angles and dangles. You're--you're Diving Officer of the Watch was the guy you had the most confidence in. So in other words, you were replicating giving those folks stuff they already knew. They already knew how to do angles and dangles, they already knew how to do this stuff. How--you just told me you wanted to get training value out of it, but you--you pulled off people that had less experience and therefore, needed more training, to put more experienced guys specifically in a position, I assume to make sure that you were slick in the way that you did angles and dangles for the DVs.

A. Not slick, Admiral, safe. The first time I did large angles with this crew, it was at 275 depth excursion, 275 feet, 400 feet out of 675 feet.

Q. You have to characterize that for me, I mean, you were at pretty deep water off of Oahu.

A. Yes, sir, we were in deep water.

Q. Okay. I don't have any clue where you were, okay, at the depth and speed, but you just told me that--you--you--it's an oxymoron to say that you want to demonstrate, you got new guys out there and you want to give them training value, and then to pull off your highly experienced--to pull off a less experienced helmsman, to put on a guy that you know that can do it, to put on your best Diving Officer of the Watch, to make sure you can do it, and then say that you want to be safe. You want to be safe, but you want to give training experience, but when you're given that opportunity, you retrograde and then you justify it by some other characterization.

You either--it's either for training or it's for safety, what is it, Captain?

A. Admiral, my message was lost in the delivery.

Q. Yep.

A. I'll try and clarify that.

Q. Okay.

A. When I talked about performing the angles and dangles, the ahead flank bell and taking the ship to test depth, that was to demonstrate to the new crew members. Whether it's my lower level Louie back aft in shaft alley, or it's my brand new mess cook who's packing trash in the TD room, not necessarily the man that's sitting in the planes, that's the point I want to make, sir.

Why did the XO come in and make the recommendation that we pull Petty Officer Feddeler from wherever he was and put him on the helm? That was to insure that I had my best possible helmsman sitting in the chair so when we performed those large angles, it would be done correctly. And the reason that I mentioned that 275 depth excursion earlier, which transpired shortly after I'd taken command, is because my crew is not accustomed to performing those particular maneuvers, at high-speed. When I asked the Control Room Party, that day, "fellows, when was the last time you'd done this?" Their response, "sir, it's been awhile." It's been awhile, and that's true, because we hadn't done them on EASTPAC, and we hadn't done them certainly during SRA while the ship was in dry dock. So it was important that I put Petty Officer Feddeler, who I know is a very talented and capable helmsman, in that chair. Because he's the man, that I know, can maintain depth. And despite the fact that he had a lot of experience, and I dare say more than most of my helmsmen, even a qualified watchstander who's good needs to have training, and that was the basis for choosing him to sit in that chair that day, sir.

Q. But you did that in an ad hoc way, you pulled him off in an ad hoc way. If--if you're insisting that it's all for training and you want to expose your crew, you got angles and dangles, as I recall on the POD.

A. Yes, sir.

Q. So the ship knew it was going to do this, why wasn't there consideration of "why don't we take the helmsman that's going to be on there--that's scheduled to be on there, on the watchbill. Why don't we provide some training for him and our expectations about how to handle the angles and dangles?" Why not say, "look, there's an opportunity here to train this guy better." You talked about loosing depth, I expect that when you do angles and dangles, I don't have experience with this but--a very small amount, that's a typical thing to do and you would expect some depth excursions. But you had very deep water which you were doing it in. So are those depths considered--excursions? Are they going to be so radical that you--that it's going to become unsafe that you have to put a more experienced guy on? Or why not take the opportunity to take the helmsman that's scheduled to be on and do some pre-training with him. Go sit him down with an experience Diving Officer of the Watch, your Chief, who obviously had a lot of experience in this, and go through it, prescript it. Do a little bit of work, provide this training value. It doesn't seem to make sense to me what you're doing.

A. I think I understand your question, Admiral. On that particular day our purpose was to demonstrate the ships capability to these distinguish visitors.

It was also an opportunity for me to train my men. I didn't specifically take the ship to sea, on that day, and knowingly take one of my junior Helmsman and put him in the chair and say, "okay shipmate, we're going to drive around for the next 15 minutes and perform large rudder angles so we could hone and sharpen your skills. That wasn't the purpose--the day's event. The purpose of that event was to demonstrate to our distinguished visitors what the ships capability was. And I could more effectively do that by having a man that I knew had the

requisite experience sit in the chair. If the distinguished visitor hadn't been onboard, Admiral and I had had that day for Commanding Officer's discretionary time, you bet I would've put one of my nuggets in that chair and say, "Okay shipmate, we're going to work on you today. We're going to show you what it's like to drive around and do some of these high-speed maneuvers." But, that wasn't the plan for that day, sir.

Q. Okay, let's move to one other area.

A. Yes, sir.

Q. Let's move to the Chief of Staff embark and your interaction with the Chief of Staff while underway. The Chief of Staff--I assume you read his Standing Orders and his memo regarding embarks?

A. Yes, sir, I have.

Q. Have you read that thoroughly?

A. Admiral, I did in fact read it and I--if it's an exhibit and I need to speak to it then please provide that.

Q. I don't think--I'm going to ask you a general question about--I'm really going to ask you about--I want to talk to about the informality of his visit and how you saw it that way. I'll just tell you the way I see it. I saw you treated the ship start to respond and the XO and I believe the Chief of the Boat met the Chief of Staff. They provided him cards which would really--the cards are reflected--the evolutions as I recall reflected the visitors that day and who was on watch. I think those were the cards that were testified too earlier. But it didn't--you didn't bother to tell the Chief of Staff things that were important about out of condition equipment, significant evolutions that you were going to do that day. Those were the requirements that were in there. In other words, to make it clear to him as a senior officer onboard--as a senior qualified submariner onboard, this is what you intended to do and here is some significant issues you had. For instance, like doing an emergency dive. I don't think you ever told the Chief of Staff you were going to do an emergency dive.

And, I think clearly in his memo there is an expectation that if you're going to do those kinds of things, that if you have significant equipment out of commission, you would brief him on that. Can you tell me why the ship didn't bother to follow through with the guidelines given by the Chief of Staff from Submarine Forces Pacific Fleet?

A. Bear with me, Admiral----

Q. I know it's a long question.

A. I want to repeat it to make sure I hit all the areas. You started off by stating that the XO and the Chief of the Boat met with the Chief of Staff. Provided cards, which had been entered as an exhibit. And, in your--in your question asked me why I didn't bother to tell the Chief of Staff about significant evolutions. Here is what I intended to do. Warn him about the emergency deep, significant equipment that may have been out of commission and why the ship didn't follow through.

Q. Yeah.

A. Okay, sir, when the Chief of Staff arrived on the morning of 9 February, I don't recall if it was in the same van with the distinguished visitors or not. His arrival preceded the time that I actually went topside. I was notified that he was there so I considered it important that I greet the Chief of Staff on the pier. It was his first time onboard my submarine going to sea. When I met with him CAPT Brandhuber had stated that he had been looking forward to this day for quite sometime, but he had reservations about coming to the GREENEVILLE for what he discussed is obvious reasons. I understood that. LCDR Tyler Meador, his son-in-law, was my Engineer while I was in command. And, the Chief of Staff was careful not to convey a special interest or convey to perhaps other boats or whatever, I don't know, that there might be undue favoritism due to the fact--the part his son-in-law was onboard the ship.

Q. Did you know that?

A. Did I know what, sir?

Q. That he didn't want to convey undue favoritism?

A. He mentioned it to me that--he said, you know I've been holding off--and I'm paraphrasing because I don't recall expressly what was said that day, but he said, you know I've been--I haven't intentionally coming down because of the fact that the Tyler's onboard. But, I wanted to take this opportunity today because it was his last underway onboard the ship before we headed out to perform our ORSE work-up the following Monday, and then our inspection on the 19 and the 20th of that month. I understood that. And, I--I recognized what he was saying to me, but I had seen that the XO had talked with the Chief of Staff and I asked him if there was anything that I needed to do on that day. Do I need to--are there briefings? He said, "No, carry out your routine and get your ship underway. I'm just going to walk around."

I made it a point to discuss with the Chief of Staff and inquire if there were any expectations that he had--special report. The answer was none. Your position reports that the Quartermaster prepares and provides--he was there to escort the distinguished visitors and that's how I viewed him that day, not as an outside inspector, not as a man that was coming down onboard my ship to critique, that I needed to say, "Sir, while onboard would you please conduct a navigation evaluation of my piloting party?" I asked him, "Sir, do you want to join me on the Bridge?" "No, I don't need to go on the Bridge." "Sir, would you like join us on the Bridge on the inbound transit? It's my intent to have LCDR Meador take the watch as the Officer of the Deck, so that you could be with your son-in-law. Would you like that?" "Yes, that sounds good, but I don't want to go on the Bridge on the outbound leg," and I understood that. He was provided three 3X5 cards and--I need to speak to those. We can pull that exhibit? But, in that--it clearly listed and provided what the sequence of events were for that day, it essentially was a compilation of the Plan Of the Day and the schedule. We also provided the Chief of Staff with a 3X5 card that had the list of names of all the distinguished visitors, husbands and wives that accompanied us that day for the cruise. In addition, the 3X5 card, which listed the

names of all the officers, LPOs and our Chiefs, so that in the event he had the chance to interact with the crew, he would know who the man was and his assignment. Here's what I intend to do, that was the 3X5 card, that was the scheduled day's event.

And it was clear that the purpose of that operation for that day was to engage the distinguished visitors and take them to sea.

Q. Is an emergency dive a casualty maneuver?

A. Sir, the emergency deep----

PRES: Deep, okay----

WIT: Emergency deep. I don't have the Ship Systems Manual, but to my recollection, it falls under the caveat of what you would consider a casualty procedure.

Q. And it was unexpected?

A. The Chief of Staff under testimony, if I recall, said it caught him by surprise as it did my other crew members.

Q. Yeah, but as a courtesy do you think even without the Chief of Staff memo that you familiarize with, that as a courtesy you should've mentioned to the Chief of Staff that you're going to do an emergency deep?

A. Sir, it was my practice, while I was in command on that particular drill, to not announce the emergency deep. And I'll explain. If the Captain or any other officer, including my qualified Officer's of the Deck or the training Officer of the Deck under instruction, were to initiate an emergency deep for training--I mean tell me--because if I was in the Control Room or some other place on the ship and I heard that LMC announcement emergency deep, I'd want to know what was going on. On this particular day, the Chief of Staff--and could I pull up the Exhibit please that shows the Control Room? I'm talking about Exhibit 6. I was standing aft on the Conn behind Number 2 periscope after I completed my periscope search and this is following the period that the ship had transcended to or transit to

periscope depth and this was prior to the conduct of emergency blow.

The Chief of Staff was over on the port side of the Control Room and in the vicinity of the fathometer and the radar.

Q. How many feet away is that?

A. Sir, I don't have a scale drawing here and I can't tell you in exactness, but I would say it's within probably 6 feet.

PRES: Okay.

WIT: 5 to 6 feet. And I called the emergency deep as a training evolution. I backed up from the scope. I raised the handle. I rotated the ring for the scope and called emergency deep. Walked up inserted the ball lock pin on the periscope ring. And it was obvious that it took the Control Room party by surprise. Which for a training evolution of this type, I intended to do. We had no visual contacts, Sonar had reported no threat contacts as ESM had. And--so the crew's expectation of this report emergency deep would catch them by surprise and that's the intent of that training evolution. Did I warn the Chief of Staff ahead of time? No, sir, I didn't. Did the words come out of my mouth after the Chief of the Watch called on the LMC, and he was prompted by the Diving Officer of the Watch to do that sir, because he didn't immediately carry out his actions. Was that--this was for training and that was followed with the LMC report that the emergency deep was conducted as an evolution for training?

Q. My question was more to the point, why didn't you give the Chief of Staff the courtesy that you were going to perform a significant maneuver like an emergency deep? Just as a courtesy, tell him that?

A. Sir, if I had--there was an opportunity for me to--in retrospect do that perhaps in the morning, but you know, I didn't think about it at the time. When you're at periscope depth--and as a Captain, I've done this on numerous occasions with my watch teams. It's a spontaneous action to test the alertness in the ability of the watchstanders to

carry through this act. And in this case, if I had backed away from the periscope and looked at the Chief of Staff and said, "Chief of Staff, I'm going to conduct an emergency deep for training," the cat's out of the bag. The crews training benefit is reduced. And so, by the very demeanor where I call out emergency deep, walk casually to the periscope ring, lower the periscope and put the ball lock pin, there was no sense of urgency or any follow-up report. I have a close aboard visual contact. Get the submarine down now. The words came out of my mouth emergency deep----

Q. The Chief of Staff had been in Control since about what 1300, 13 whatever it was----

A. Sir, I don't know what time the Chief of Staff entered Control or how long he had been there.

PRES: Okay, we'll recess until 1000.

The court recessed at 0937 hours, 20 March 2001.

The court opened at 1000 hours, 20 March 2001.

PRES: This court is now in session. Counsel?

CC: Let the record reflect that all members, parties, and counsel are again present. The court has no procedural matters, sir.

PRES: Procedural matters for parties?

Counsel for CDR Waddle, party (Mr. Gittins): No, sir.

Counsel for LCDR Pfeifer, party (LCDR Stone): No, sir.

Counsel for LTJG Coen, party (LCDR Filbert): No, sir.

CC: CDR Waddle, I would remind you that you're still under oath.

WIT: Yes, sir.

MBR (RADM STONE): Yes, sir. We've wrapped up for now the questions on the Chief of Staff. I wanted to go back to the subject matter that VADM Nathman was discussing with you concerning going down to test depth with the DVs onboard, as well as the decision to conduct the emergency blow--emergency surface evolution with the DVs embarked.

EXAMINATION BY THE COURT

Questions by a court member (RADM Stone):

Q. On 9 February, your mission that day was a DV embarkation, is that correct?

A. Yes, sir, on 9 February, our mission and sole purpose for getting the submarine underway was the DV embark.

Q. And, higher authority, SUBPAC, those that have operational command of you, do you think they made it clear to you that safety is your number one priority?

A. Sir, I had no discussion with COMSUBPAC regarding the DV embark other than the conversation I had with LCDR Werner on February the 8th, Thursday.

Q. Okay, when you take your submarine to sea in peacetime operations, such as this 10 miles south of Diamond Head, is safety your number one priority?

A. Sir, safety is my first tenet that I instill in my crew, yes, sir, safety is one of the important objectives.

Q. So, then it would be accurate to say that--as RADM Konetzni talked to us about prioritization and how important that is for a Commanding Officer of a submarine--that safety is number one and then DV embarkation, training, other objectives, would fall somewhere underneath that? Would you agree with that statement?

A. Yes, sir, I would agree that safety is important.

Q. The number one priority in this particular mission?

A. Sir, I consider safety to be important on all undertakings on my ship.

Q. But, on the 9th of February, was safety your number one priority?

A. Yes, sir, safety was my priority.

Q. Okay, as I look through then what you were doing with the DVs embarked and safety being the number one priority, it doesn't seem right to me that one would be taking as Commanding Officer of the submarine, the inherent additional risk to go down to test depth--for instance, if you would have had a casualty down at test depth, people would be coming to you today, probably much earlier in saying, why would you take the submarine down to test depth with civilians onboard and accept that increased inherent risk in that? Or, if you did an emergency surface and hit a vessel, people would be coming to you and saying, "Why are you taking that additional inherent risk in doing an emergency surface with DVs embarked when your mission for that day has safety as the number one priority?" In view of that, I'd like to hear what kind of judgment is it in going out and accepting this increased risk in going down to test depth and doing an emergency surfacing evolutions with civilians onboard when that has that element of increased risk and seems counter to the number one priority of safety?

A. Admiral, again you've addressed numerous areas and I'm not sure what your specific question is, but in your question you addressed safety as my first priority. Am I not increasing the risk by taking distinguished visitors to test depth, performing an emergency surfacing procedure, the emergency blow, and if I understand your question correctly, you're asking me to justify those actions, is that correct, sir?

Q. And this might help clarify for you. I'm questioning your judgment as Commanding Officer in conducting two evolutions that have increased risk inherent in them with civilians onboard when the Navy has very clearly made it very specific with regard to safety is your number one priority. All

our Commanding Officers, all of us in command know that in peacetime that we're not at war, you're doing an op, so I'm questioning your judgment. Why would you be taking that increased risk with civilians onboard when safety is your number one priority? Explain your judgment to me.

A. I understand your question, Admiral. Safety is my number one priority. Whether I took the ship to 800 feet or to test depth, the evolution of rigging the ship for deep submergence was a precursor to that event; raising the watertight condition of the ship to an elevated level and taking precautionary measures to safeguard, not just the DVs, Admiral, but my crew. As I gave in earlier testimony to VADM Nathman, I took my submarine to test depth as a demonstration to my crew. I agree in hindsight with the fact of classified issues of concern being brought to light, that was wrong. Admiral, that was wrong and I understand that, and I can't give you an excuse and I won't give you an excuse for that, it shouldn't have happened.

But, as far as conducting the emergency blow, that's a very important procedure in light of the tragic implications of the loss of the submarine KURSK. I believe it's very clear to the court and to the audience sitting in this court, as well as to the world, that submarining is a dangerous business. And, in performing that emergency surfacing evolution, I used it as a demonstration, not only for the distinguished visitors, but for my crew to demonstrate how the submarine could recover and get to the surface. You asked how do I incorporate that, I considered that evolution to be safe with the precautionary measures taken to support it.

At the time on 9 February, I considered my judgment and my decisions to be appropriate to provide for the safety of the ship, the crew, my distinguished visitors. And, you mentioned earlier, sir, that if a collision were to occur as a result of an emergency surfacing situation that there would be an investigation and an inquiry into the cause, and that's why we're here today because of that tragic accident in which I deeply regret the loss of life and the pain and suffering that it's caused to not

just the Japanese families, but to my crew members and my former family, the GREENEVILLE.

Questions by the President:

Q. Commander, I'm a little troubled--this KURSK accident and the emergency deep. The KURSK accident, to my understanding in the press is a result of what looks like a torpedo malfunction in the tube or high order explosions that have been reported. That seems to be a training issue with handling ordnance and torpedoes, how does that--if you want to increase the safety of your submarine based on the KURSK accident, wouldn't you be spending more time in your ordnance handling procedures or your Torpedo Room procedures or that review? Did you do that as a result of the KURSK accident?

A. Sir, it was not my intent to detract the court's interest from the focus of this event, which is why I chose to perform the emergency blow. I merely used the KURSK submarine tragedy not knowing the details. You as an Admiral, sir, have greater access to information than I do. I only have access to what I gleaned from press, but if I may continue, the KURSK tragedy, as much of a tragic accident as it was, regardless of the cause, can be used in this particular case as an example. I didn't discuss this with the DVs and I didn't discuss this with my crew and say, "The reason we're having this emergency blow procedure today is to demonstrate that I can recover unlike the unfortunate crew of the KURSK," but I merely wanted to highlight the fact that the young men that I take to sea, and the not so young men, are afforded the opportunity to get the ship back to the surface in an emergency when need to, and that is the reason why I used that as a demonstration, sir.

Q. Well, it seems to me that you were troubled by the fact that it's dangerous and then if you're--as a professional submariner, if it's dangerous, the reason why it's dangerous is because of apparently issues with ordnance handling, and specifically torpedoes in the Torpedo Room. Now, if you were so troubled by that, did you conduct additional training for your crew on torpedo handling?

A. Sir, we always conduct----

Q. Additional training?

A. Sir, I can't tell you what additional training was performed----

Q. Did you ever talk to your Wardroom about this accident and say because of this, I think we ought to go out and conduct additional training on our torpedo handling?

A. Sir, we did do additional training--officer training, and I know that my Weapons Department is considered the best Weapons Department on the waterfront; and yes, sir, we did do training and we always do training.

Q. I know, but additional training as a result of the KURSK accident since you raised it as such an issue--had such an impact on you in terms of safety?

A. Sir, I don't recall if we did additional training in response to the KURSK accident. I can't tell you that, sir.

PRES: Alright.

MBR (RADM STONE): RADM Sullivan.

Questions by a court member (RADM Sullivan):

Q. Commander, the last couple of hours we've waxed eloquently on some of the responsibilities of Commanding Officers. What I would like to do is focus you on the events of 9 February in the afternoon. I fully recognize that command is all about priorities and for me to be able to understand thoroughly what happened on the afternoon of the 9th, I would like to go through the events from about lunch time on and get from you through our cross-examination what your thoughts were, what direction you gave your crew and other subordinates, and what your orders were. When I look at the events--and you know the procedures--standard procedures used on a submarine to do these events as well as I do if not better. I keep coming up against issues that were not done in accordance with guidance--events not done in accordance with your Standing Orders, and I need to understand the best I can now that you are openly testifying here, how that all occurred.

Using Exhibit 4, which is of course the reconstruction of the afternoon events of the 9th, I'd like to start really about the lunch time period and even before I get to there, I'd like to talk about what situational awareness you had. What were your thoughts? On the way up to the dive point, to the operational area, what was the weather--what was the visibility that you observed from the Bridge?

A. Sir, the submarine got underway at approximately 8 A.M., I don't have the exact time, it was overcast and I don't recall what the wind direction was, but I remember in the harbor area it was pretty calm.

Q. I'm talking more once you got to open waters transiting down south of Diamond Head. Did you look through the periscope while on the surface?

A. Sir, I was on the Bridge during----

Q. The entire time----

A. No, sir, not during the entire time, but I was on the Bridge--could we have the exhibit please for the--the Navigation Chart that shows the Hawaiian Island chains, please? [The bailiff did as directed and mounted Exhibit 17.] I'm not sure if the Pearl

Harbor Channel entrance buoys are shown in adequate detail, but I'll attempt to explain. As the GREENEVILLE got underway, I was on Bridge, half of the distinguished visitors were moving topside after we cast off lines and I told the Chief of the Watch--I may have mentioned it to the Chief of the Boat, I don't recall discussing this with the XO, that I would take the other half in groups of about four, put them in harnesses and get them up on the Bridge for the outbound transit. So, as we left the Pearl Harbor Channel entrance area, we were doing about a standard bell because I recall that I waited for the outboard to get rigged in and secured. I could look ahead and see the waves and see what type of wave we might encounter once we cleared buoys 1 and 2. In the channel, we're protected because the channel is cut out from the reef area and so we don't have a lot of wash over the forward part of the submarine, so as we cleared channel----

MBR (RADM SULLIVAN): Commander--Commander, could I just ask you to get to the point--to the bottom----
WIT: I'll get to the point, sir.

MBR (RADM SULLIVAN): I've operated a submarine out of here for a number of years. I understand the channel in Pearl Harbor.

WIT: I know you do, sir, but I don't know if RADM Stone or VADM Nathman or the other members of the court are familiar with that, that's why I'm going into that detail, Admiral, not knowing the benefit of their expertise, whether they're a ship driver or an aviator. So, as we cleared buoys 1 and 2, I noted that the wash and the splash forward of the Bridge had increased. I called ahead full, but then I backed down off the bell because we took a little bit of spray over the top of the Bridge and with the distinguished visitors there, I didn't want them to get wet, they didn't have the luxury of a change of clothing.

Your question was, what was the weather? It was overcast, gray, I could see the land mass clearly. Why? Because I was in close proximity. I don't recall looking over and seeing Molokai, I didn't look in that direction, but I could see Diamond

Head, and visibility was good. Seas were approximately 3 to 4 feet and wind speed, my guess, Admiral, was about 10 to 15 knots, I couldn't tell you the direction.

Q. While the ship was on the surface and you--you obviously came down from the Bridge at some point, did you ever have the occasion to look through the periscope?

A. I don't remember, Admiral, if I looked through the periscope at that point or not. It's customary that I do, but I can't tell you at that point whether I did or I didn't. I know that when I come down from the Bridge as a Captain, I call "Captain, down, Officer of the Deck up and lookout by name." We've rotated all the distinguished visitors through and I was concerned then about ready for the meal. It's customary that I take the periscope, I'd take a look around, I'd take a look at the contact picture that my Control Room Party has--at that point, we would still be using the full piloting party, so there are a large number of men in the Control Room. Did I look out the scope? I can't confirm that I did, but it would be unlikely for me not to, Admiral.

Q. Your Navigator, LT Stone----

A. Sloan, sir----

Q. Excuse me, Sloan, testified that when he looked through the scope either as acting as Navigator, Contact Coordinator, I don't recall, but he certainly noticed the difference in visibility to the north when it came to looking at a given contact color of hull. Was any of that information relayed to you?

A. No, sir, none of that information was relayed to me.

Questions by the President:

Q. Did you get a sense when you were on the Bridge, Commander, visibility conditions looking to the north?

A. I did, Admiral, and I--again by the time that I left the Bridge, which was about an hour and a half or so after the ship got underway, we were maybe a

mile or two south of the Pearl Harbor Channel entrance buoys, so I could see the land mass. I could see land clearly and I didn't see any evidence of obscured vision or rain squalls or things like that where I'd be concerned about a reduced visibility condition----

Q. How would you characterize the sea state conditions?

A. It was about a sea state 2, sir, as I mentioned 3 to 4 foot seas, winds about 10 to 15 knots to the best of my recollection. It wasn't bad, but I just knew I couldn't order a full bell because I wouldn't have soaked the watchstanders on the Bridge.

Q. You've held that into your internal calculations in terms of what kind of PD height you'd want when you go to look for contacts?

A. I do, yes, sir, when I'm going to periscope depth, I do indeed.

Question by a court member (RADM Sullivan):

Q. As testimony has pointed out a number of times, the AVSDU, your remote Sonar display on the Conn, was out of commission and was out of commission or went out of commission shortly or roughly when you got underway. You knew the AVSDU was out of commission, correct?

A. It was reported to me the AVSDU was out of commission, but I don't remember being told that that morning. I do recall though that when I got down from Bridge and I walked to the Conn, I looked up and I was surprised that the screen was blank.

Questions by the President:

Q. What I've heard here in the last two weeks is how important the AVSDU is to the Conn, it's the way you can see your sonar contacts directly on the Conn, so it's an important instrument, agree?

A. Yes, sir, it's an important backup for the Officer of the Deck, so he can see what Sonar is looking at.

Q. We've heard a number of witnesses, watchstanders in Control, watchstanders in Sonar, refer to it as a way that the Conn can get their situational awareness rapidly and backup what they're hearing from--either from fire control or from sonar because it's an important instrument for them----

A. Yes, sir, that is true----

Q. And, that it's specifically put in Control for a reason----

A. Yes, sir, that is true----

Q. And, so it contains very valuable information.

A. It contains very valuable sonar information, yes, sir.

Q. Wouldn't you as Captain of GREENEVILLE be expected to take a report from an XO, from an Officer of the Deck, from the Weapons Officer or from his representative about the status of that instrument or that display in Control?

A. Yes, sir, I would.

Q. And you didn't get it?

A. Sir, I don't remember the report that morning--

Q. Well, wait a minute, Captain, that's an important tool and you don't remember whether or not the AVSDU was out of commission or in commission when you got underway?

A. Admiral, I'm telling you that I don't recall.

Q. Well then I have to assume you didn't get the report and if you didn't the report, why didn't your team back you up?

A. I can't offer you an explanation for that, Admiral. You know, the Navigator under testimony said that he came into my Stateroom and reported the AVSDU out of commission or not operable. I don't remember that report. I just don't remember it, sir, but I do remember as I said, when I came down from the Bridge going into the Control Room and looking up and seeing that the AVSDU was not functional and asking what we were going to do to repair it.

Q. Then you wouldn't recall any type of compensation that the boat would put into place or you would put into place for loss of the AVSDU?

A. I did not give specific direction to my Officers of the Deck, Admiral. When I qualify my Officers of the Deck, I instill in them, as does my Executive Officer, the Senior Watch Officer, and other qualified Officers of the Decks and subordinates, standards with which we operate. My expectation from my Officer of the Deck, LTJG Coen, even if he had been qualified 6 months or 3 months, knowing that that equipment was out of commission, would have been to increase the number of visits to Sonar because he no longer had that remote display. He would have made more frequent trips to gain this assay, to gain the tactical picture, and understand his situational awareness.

Q. Mr. Coen wasn't the Officer of the Deck when you got underway.

A. No, sir, the Navigator relieved after he was relieved as Contact Coordinator.

Q. So what are the standards if no one is reporting this to the Commanding Officer about a very important instrument like the AVSDU display. I'm confused, we took lots of testimony from individuals who have experience in submarines, Captains and RADM Konetzni that have said to this Court very clearly, that they would expect some compensation if the AVSDU would be out of commission for a period of time, i.e. a temporary standing order or modification to be made. So, it makes me wonder about the standards on GREENEVILLE in total, not just the standards on 9 February. If you're not appraised of the issue, you're not aware of any compensation for the AVSDU, you get to the Conn and the first time you understand it's out of commission, it apparently goes down to your threshold of what's important, that the first time you're really aware of the AVSDU being out of commission is when you walk on the Conn after lunch time, is that right?

A. Sir, you said a lot there and I need to know the question or parts that I need to take care of. You addressed the issue of standards, me not being

appraised, not aware that the AVSDU was out of commission until I got back into periscope depth----

Q. Compensation----

A. Compensation, and could I get the last part of your question, sir?

Q. I think you covered it.

A. Well, Admiral, I'm refuting or stating that I was not notified. If I had been notified by the Navigator that the AVSDU was out of commission--a lot of things on the BSY-1 Fire Control System and Sonar System break, it happens. If that was the case, that specific piece of equipment was not one that would have precluded me from taking the submarine to sea that day. There are other avenues that the crew can take to continue to operate. I've had the AVSDU fail. I can't tell you how many times on my submarine or past submarines, and it was given in testimony, I believe, that this particular amplifier was something that was common to failure. The issue was, could it be repaired. Could it be repaired while at sea or was it something that we could wait and repair when we were back inport. I chose to wait and repair it once the ship returned to port.

Did I feel that adequate compensation was being provided? Yes, sir. I expect my Officer's of the Deck to know that if the AVSDU was out of commission that they then default and make entries into Sonar to establish that assay and that contact awareness. So, I'm not here to say that the Navigator didn't make that report. I'm here to say, Admiral, that if he reported the AVSDU out of commission, which I don't remember that morning, that I wouldn't have considered it to be an underway limiting item.

Q. I didn't--that wasn't the question. I don't think it's underway limiting either from the testimony that we took, but it's clear that there would be compensation for the loss of it. We've taken no testimony--we've taken no testimony that there was a positive adequate compensation for the AVSDU.

A. You haven't taken testimony and that's correct, not verbal testimony, Admiral, but yesterday in the

statements provided by the Executive Officer, if I could have that, please, to review I might be able to point out or address----

Q. I recall a statement that he went into Sonar----

A. Yes, sir----

Q. On his own----

A. On his own, yes, sir.

Q. There was no compensation by the watch team, Control, for the loss of AVSDU.

A. Sir, I can't tell you what that Officer of the Deck did or did not do. I know that I entered the Sonar Room on two separate occasions after that lunch period to determine my assay and contact awareness, but I can't tell you what LTJG Coen did or did not do, sir. I wasn't there to observe his actions.

Q. But, you had two previous Officers of the Deck before Mr. Coen. You had the underway, the maneuvering, and you had the OOD, that as I recall, he was the Engineer and he was relieved by Mr. Coen, and he didn't talk about any compensation. We have no evidence of compensation--positive, in other words, not necessarily a standing order, and I understand that based on testimony, you were only underway for 6 hours, you wouldn't make modifications to your standing orders.

I don't recall entering into the log in terms of, "here's the compensation for it." I don't recall conversations between the Officers of the Deck or the Control Team about the loss of this--specifically, the Officer of the Deck mentioning it to you or the XO mentioning it to you in a way that it would be compensated for in a positive sort of way, i.e., "this is what we'll do, we will put--we'll be more observant in Sonar," like you said. So, there's no reaction by your team again, Commander, in a positive way to make up for the loss of a significant display and information to the Control Team in GREENEVILLE on the 9th of February. And you don't seem to be able to explain that very well except to say that you walked through Sonar a couple of times.

A. Admiral, I can't tell you what my Officers of the Deck did or did not do. My efforts and focus were elsewhere that morning after I left the Control Room when the submarine submerged. I can't tell you how many times my Officers of the Deck went into Sonar. I wish I could give you that information, but I can't. But I can tell you that my standard that I established within my underway qualified Officers of the Deck, were such that if a piece of equipment that they needed to execute their duties failed, I know, I'm confident that they took adequate compensation, compensation in this case, would have been to visit Sonar more frequently.

Q. Commander, recall Mr. Coen didn't visit Sonar from the time that you came to the Conn. In the testimony, he never went into Sonar, so the whole time you're doing angles and dangles, you're getting into stuff, there's no evidence of Mr. Coen going to Sonar. Now, those are your standards, right, Captain?

A. Sir, I can't, again, tell you what Mr. Coen did or did not do during that period of time that I was in the Control Room, again, if we can pull up the exhibit, please, that shows the Control Room area.

[The bailiff posts Exhibit 6 on wall]

After the lunch period on my first visit to Sonar here on Exhibit 6 [pointing laser at Exhibit 6], I entered the forward door, paused, discussed the contact picture with Petty Officer McGiboney, observed the passive broadband display, entered the Control Room, stopped approximately here [pointing laser at Exhibit 6] to discuss with the Officer of the Deck my intentions to prepare the submarine for angles and dangles in the afternoons events. Mr. Coen acknowledged my intent and my plan for that afternoon and I continued to remain in this area of the Control Room, looking at the Navigation plots. I didn't focus on Mr. Coen's actions. I can't tell you if he did not exit the Conn and enter the Sonar Room, which would have been customary for him to do so prior to the conduct of those evolutions. I can't tell you if he did or did not, sir. I was looking elsewhere, I was walking around the Control Room to enhance my situational awareness, my

understanding of the contact pictures, looking over the MK 81-2 to see what we had on time/bearing displays to see what the Fire Control Technician of the Watch, Petty Officer Seacrest, was doing, and looking and engaging the Quartermaster as to our current ship's position to help me understand what our situational awareness was because I had lost that during the period of time that I was below in the Wardroom dining with the distinguished visitors. And in my Stateroom, the area here [pointing laser] on exhibit 6 just forward of the ship's control panel on the port side.

Q. Well, since you don't recall hearing it was out of order, what was your reaction when you went into the Control Room and you saw the AVSDU out of commission?

A. Sir, I was frustrated, as I've been frustrated with a lot of the material failures that happen on the BSY-1 system. They happen at what I consider to be never an opportune time, but I considered that the failure of the AVSDU to just be again, something that happens with the BSY-1 system that I knew I could get repaired or have my Sonarmen repair when we got back into port. Or if it was something as simple as cold starting fire control, turning it off and turning it back on, that my guys would do that, but that wasn't the case.

Q. Did you use your frustration to re-enforce your high standards of maintaining the right type of compensation for the loss of that display with the Officer of the Deck?

A. Sir, I had no discussion with the Officer of the Deck regarding the failure of the AVSDU or my expectations for him to increase his tours into Sonar to enhance his situational awareness.

Counsel for CDR Waddle, party (Mr. Gittins): Sir, if I might, I have a document that may assist you in this line of questioning--it may shed some light on it.

PRES: Well, I think we're just shedding a lot of light on it right now, but I'd be happy to see the information.

[Bailiff retrieving exhibit from Mr. Gittins and handing to court reporter.]

CR: This will be Exhibit 80.

[Bailiff handing Exhibit 80 to the President.]

Counsel for CDR Waddle, party (Mr. Gittins): Sir, Exhibit 80 is called the Trouble Log on USS GREENEVILLE.

PRES: Okay, it says 2/9/01 AVSDU display control will not display anything, screen completely dark, and it's initialed by the Sonar Officer, it's initialed by the Chief of the Boat, it's initialed by the Officer of the Deck, the XO and the CO. Okay, so is there a time of this so I should know?

WIT: It says 0810, sir.

Q. Okay, so he initialed it so he was aware?

A. Yes, sir.

Q. So, it goes back to my point. The discussion of what type of compensation or expectation of compensation when you lost such an important instrument. Those were the questions I was trying to understand.

A. Yes, sir.

Q. So, he was aware early in the morning.

A. Yes, sir, the suggestion was that he was not aware and it's clear that he was. He said that he did not recall, sir.

WIT: Admiral, if I may, I don't recall LT Sloan specifically telling me that morning before the ship got underway at 0800 that the AVSDU had failed. I acknowledged that based on the trouble record, we call it the Green Book, that I was aware that the AVSDU had failed. Prior to getting the ship underway and getting into harness, I'm thinking about how we're going to orchestrate visitors and if the report was received, say at 0700, I have other things that are on my mind and I'm just telling you I can't specifically recall that he told me that it was out of commission. I don't refute that he did.

I'm just saying that if he did I wouldn't have considered that to be an underway limiting item or something that I would have to give my Officers of the Deck additional instruction. My expectations would be that they would take the requisite action to enhance their situational awareness.

Q. Well, one of the reasons why I'm asking the questions about this is that in the last two weeks I've taken--the Court has heard a lot of testimony about the importance of this display. So, it's kind of imprinted in my mind as an aviator, which is my warfare specialty, that this is a very important instrument. In my experience with flying aircraft, when I lose an important instrument, whether I see it as mission limiting or the ability to fly the airplane from point A to point B, you know whatever its characterization--I would be aware that it was out of order and I would put that somewhere.

I know you're busy, I know you have a lot of things to do. I know you have a lot of priorities, but since it seemed to have such high importance placed on it, I think your awareness of the fact that it was out of commission would have been elevated in the things that you consider and you seem to indicate that it seemed it reached no threshold of which that it had some value that you would remember that it was out of commission until you got on the Conn that day and you noticed that it was no longer in commission.

And the reason why I ask that question was trying to understand then, if it didn't have any threshold about your awareness then you obviously weren't going to ask about any type of compensation for it and then it didn't get that, it didn't get the positive backup because it was out of commission, that's why I was asking those questions, Captain, to be fair.

A. I understand your questions now, sir. The BSY-1 system has two fathometers, here on Exhibit 6 [pointing to exhibit] on the port side aft corner is one such location where a Sonarman--qualified Sonarman stands his watch. There have been circumstances where the fathometer in the Control Room has failed and I've had to relocate the petty

officer to operate or stand his Fathometer Watch in the Sonar Shack. As equipment fails, I expect my subordinates to carry out actions to compensate for it. I did not give clear instruction to the OOD that day or the Contact Coordinator. Was I aware when I saw the AVSDU screen blank that that was a problem? Yes, sir, I did, but I was confident. My men, knowing that that was out of commission would compensate for it without me having to tell them.

Q. But your confidence is not backed up by fact. The fact is that Mr. Coen doesn't have any documentation as the Officer of the Deck of going to visit Sonar as a result of the AVSDU being out of commission. So, it's an oxymoron for me--or Commander, to hear you tell me this that you expect compensation, but then it doesn't happen, or this is important, but you're not going to ask for any positive backup. It concerns you, it frustrates you, but you don't ask why, you don't follow that frustration up with a specific positive action. There's no documentation of the positive backup for the loss of the AVSDU, the XO goes to Conn, but he does it on his own, and that's what I'm trying to understand, so if I'm stating incorrectly, you can tell me I am, but I don't think I am based on what I've heard in testimony the last two weeks.

A. No, sir, I can't tell you that there was written compensation and verbal compensation, I didn't get it, and I didn't sign a piece of paper and if I'd been operating the submarine at sea for a period of time where I could not restore the AVSDU to service, I would have written a supplemental standing order--not me written, I would have had the Weapons Officer write it and I would have signed it and had it put into place. But for this day, I considered that the experience of my qualified OODs, including Mr. Coen, would take the action to compensate for it. I did not provide anything written, sir. I did not give any verbal direction, that is correct.

Questions by a court member (RADM Stone):

Q. To follow-up on VADM Nathman's questioning here, I follow what you're saying, I just don't believe it and I don't believe it for the following reasons----

A. What part don't you believe, Admiral, because we've discussed a lot.

Q. That you as a successful Commanding Officer of a submarine would not give your Officer of the Deck some direction, or even go to him and say, "Lieutenant so and so, this is out of commission, tell me what you're going to do to compensate," and back him up. Where is the backup that you as the Commanding Officer provided your watch team for the loss of this piece of equipment? I don't see it.

A. Admiral, I think I made it clear that I didn't give any verbal direction or I didn't give any written direction regarding this.

Q. When LT Sloan told you it was out of commission, your reaction was, "Okay, fine, not a problem or whatever."

A. Admiral, I didn't say that, I told you I had no recollection of him giving me that report. I just don't remember him telling me the AVSDU was out of commission.

PRES: Well, that indicates to us that you don't have any positive reaction to it, you know that you don't remember the conversation, you don't remember the initial, so it indicates to us that you're not reacting positively--it's not of a significance to you of any sorts that you are going to do something about it. So, if you don't remember it, it just means to us--it means it's not important to you.

WIT: Admiral, I would disagree that I wouldn't play--you're telling or merely stating here that I would consider that to not be of significance, that's not true. The AVSDU is a significant piece of equipment and I understand that. My point is that I don't recall that verbal report from the Navigator. I receive a lot of reports prior to the ship getting underway and I hear a lot of things over that open microphone in my Stateroom, which is not shown here on Exhibit 6 [pointing laser at

exhibit], there's background noise, the reports that are coming, I can't tell you what I was focused on at the time where I was written something. I may have said, "Okay, Nav," dismissed him and not listened to what he said, that's a possibility there.

But, I do know that when I returned to the Control Room, following my time on the Bridge, and I saw that the AVSDU was out of commission, I was disappointed, but I did not say anything in writing or say anything verbally to my OODs, nor did I give them written direction on what I expected.

Q. But, can you explain to me why your Diving Officer on the afternoon of the 9th, your Chief of the Watch, weren't even aware that the equipment was out of commission when they assumed the watch, as we've heard in testimony. Or how your FTOW at the time, didn't know it was out of commission when he assumed the watch and only he learned as he was on watch. The Chief of Staff of SUBPAC onboard your ship did not realize it was out of commission until he happened to walk in and see it in Control.

Now, I haven't obviously had a chance to talk to the Officer of the Deck, but I get this feeling like no one who normally tracks this type of ship status was aware.

A. May I have that exhibit of the Trouble Log, please? [The bailiff retrieves Exhibit 80 from PRES and hands it to the witness.] And, I'm referring to Exhibit 80 here [looking at Exhibit 80], Admiral. When you say that no one that was responsible was aware, and I want to point, I know you can't see it, but the OOD has initialed and that looks like, I can't tell if that's LT Sloan's initial, but the XO's initialed it, I've initialed it, the Chief of the Boat has initialed it. The only two--if you want to take that to the Admiral----[The bailiff did as directed.]

Q. Commander, can you explain then why the other parts of what--there are several other initialed list on there, there's a watch--a particular billet, right?

A. Yes, sir, that's the ST LPO, and I'll bring it back over to you so you can see it, Admiral. I won't bring it, I'll have the bailiff do that. [The bailiff did as directed.] And again, I'm talking about Exhibit 80. It has the ST LPO, which would have been Chief Gross, who was left behind that day, as well as, the CSO, Admiral, the Combat Systems Officer, LT Van Winkle, he also remained in port on that training day, and that's why you don't see initials there. They certainly would have been made aware of that material failure following the ship's return to port when the Trouble Log would have been routed to them.

Q. Was there someone standing in for the Weapons Officer?

A. Was there someone standing in?

Q. Yes, acting for him while you were underway?

A. LT Mahoney as the Sonar Officer. I don't recall if the Executive Officer had observed the turnover between the two, but LT Mahoney as the Senior Division Officer would have been my acting Weapons Officer on that day, sir.

Q. Okay----

A. Admiral, I want to ensure that I address your earlier question, which was--RADM Sullivan here, why the Chief of Staff, the Diving Officer of the Watch, the Chief of the Watch, and the Fire Control Technician of the Watch were not aware of the fact that the AVSDU was out of commission. The Diving Officer of the Watch stands his watch, here on Exhibit 6, [pointing laser to Exhibit 6], in this chair at the ship's control panel. He does not have a clear view, and--bailiff, could I get you to move this overhead stand, please, it's obstructing my access with the pointer. [The bailiff did as directed.] Thanks, shipmate.

The Diving Officer of the Watch does not have a clear view to the AVSDU, which is located here on the forward part of the Conn, [points to Exhibit 6],

up in the overhead, he can't see it. Furthermore, he doesn't use it. The Chief of the Watch, which is located here in the forward port corner, and I'm talking about Exhibit 6, again his back--it's clearly obvious I think, to the Conn, and it's another piece of equipment that the Chief of the Watch does not use to carry out and conduct his duties as a watchstander.

The Fire Control Technician of the Watch, again I'm talking here about Exhibit 6, on the starboard side of the Control Room, is sitting in one of the four chairs here, at the 81-2 fire control displays, is facing outboard of the starboard side. His back is to the AVSDU. It's not a piece of gear that he uses. So with those three watchstanders, I think I can explain that the AVSDU, a piece of equipment not part of their watchstation or associated with their watchstation, is something that they may not have been aware of. As far as the Chief of Staff goes, Admiral, I didn't give him a report that it was out of commission, but it's something that he would have seen if he toured the Control Room and saw the display blank, it was clear it wasn't working.

Question by a court member (RADM Sullivan):

Q. I'd like to move on, but I have to--I don't have an objection or even--I understand what you just said, but it tells me a lot about the professionalism of your crew and their turnovers of watch. This is something that every submarine experience I have ever had, these people would know these things. One, the Chief of the Watch, he's the one that tracks these things, and just as the watch to watch turnover. I just don't understand.

A. If I may have the exhibit for the Trouble Log back again, please? [The bailiff did as directed.]

Questions by the President:

Q. Well, Captain, it kind of goes to a follow-on question while you're getting this Trouble Log back. Doesn't it--you know--like you're on your pre-watch turnover, or your walk around, these are folks that are in Control and so it's a critical part of the ship's Control Team. And so, there's an expectation, and I'll ask it as an aviator, but there's an expectation that in their pre-watch turnover, they would be more observant or they would do--they'd look at the out of commission log, or they'd do these things to make themselves aware of the ship's ability to control itself. And that's an obligation of these senior watchstanders, the Chief of the Watch or Diving Officer of the Watch or Fire Control Technician of the Watch, and yet you seem to give us an excuse why they're not aware of these particular items and they all testified to the fact that they were not aware.

A. Sir, they testified to the fact that they're not aware, and I agree in the normal function of their duties as the Chief of the Watch, Diving Officer of the Watch, Fire Control Technician of the Watch, it's not a piece of gear that they would routinely use. Now, the Chief of the Watch, whoever was standing that watch at 0810 the morning that we got underway and the Maneuvering Watch would have been responsible for making this entry into the Trouble Log, and directing the Messenger to route it and get the Trouble Log delivered to the Captain, so he'd sign this. I can't tell you why the AVSDU was not discussed by the Chief of the Watch, the Diving Officer of the Watch, or the Fire Controlman of the Watch, but if it was a piece of equipment that impacted their watchstation, I would expect them to discuss that. Looking back on it, would this have helped the situational awareness of the group? I can only speculate and say, yes.

Q. And give you more backup?

A. And give me more backup. But there is a checklist, Admirals, it's in the Standing Order, my CO Standing Order, that clearly delineates what I expect my Officers of the Deck to do. They use that checklist to ensure, such an Officer is LTJG Coen, if he takes a deck in the Conn, understands what

equipment failures have occurred onboard that ship, how it becomes operational limiting and how it impacts him. He's the one man that I know that has a checklist that addresses that issue of material failures. I don't have that for the other watchstanders, but good watch standing practice, Admiral, I agree would incorporate equipment that was out of commission that would enhance the operational awareness of the crew, and I'm disappointed that was not done.

Questions by a court member (RADM Stone):

Q. In your summary of initial interview, you state that you sent the XO--you ask the XO to remain in Sonar through the periscope depth----

A. What interview was this, Admiral? The unsworn testimony--the statement that CAPT Byus took?

Q. Is that in fact the case, that you asked the XO to remain in Sonar through the PD evolution?

A. Sir, that statement was incorrect on that fact.

Q. You did not ask him?

A. I did not have a conversation with the XO at all. What I had was nonverbal communication. I worked very closely with LCDR Pfeifer, as he has with me the past year. And the nonverbal communication that we had was he looked at me, did one of these things, thumb, thumb up, [shows thumbs up gesture.] going into Sonar, I looked and I nodded, and that was my agreement. I've worked with him long enough to know exactly what that meant. He was going into Sonar to be my eyes, because I could not see, where I was standing on the Conn, through the Sonar Room, and I'm talking about Exhibit 6 here, when I'm standing forward of the Number 1 periscope, through this curtain drawn door, or a door that has a curtain drawn, which would provide me with visibility of the Sonar Display, which is located a third aft, starboard side, past the broadband where the workload share was. I wouldn't have been able to see that.

Questions by a court member (RADM Sullivan):

Q. Okay, I'd like to move on. During the lunch period, where the ship basically was deep in awaiting the afternoon events, you were not, as I understand it, on the Conn, but when you walked into the Control Room, can you tell me about what time you walked into the Control Room to start the evolutions of angles?

A. Yes, sir. I remember the XO coming to my Stateroom and saying we need to move on because we're not going to make "Papa Hotel." I don't recall the specific time, but it was sometime after one o'clock. I was signing photographs for the distinguished visitors. I wasn't hurried. I wanted to get the photographs signed, so it was sometime after 1300 and I can't tell you exactly when that was.

Q. What did you say to his question about--his comment about we need to move on? What did you say to him?

A. I don't recall what I said but I--my response to him would have been, "I'm going to finish the pictures and if we're going to be late we're going to be late." You know the "Papa Hotel" time is plus or minus 15 minutes, so if I arrived at 1415, I didn't consider that to be an issue, or once I got the ship on the surface, it's easy to call in on Channel 69, with Pearl Harbor Control, and say I'm a half an hour late.

Question by the President:

Q. You were working then, just to make sure it's clear, since you hadn't been surfaced yet except for a very short time at PD, were you working that to be to "Papa Hotel" at 1415 the whole time?

A. No, sir. I wasn't shooting for any particular time. The Admiral asked me what was I doing after lunch. I was signing photographs and as soon as I finished signing pictures for all the guests, then I got up and I walked into the Sonar Room to determine the contact picture.

PRES: Okay.

Questions by a court member (RADM Sullivan):

Q. You were running--you testified--in your testimony--about 45 minutes behind your schedule--the supposed scheduled, recognizing that they're not cast in stone. Why was your ship running behind schedule?

A. I think it was because of a number of events, Admiral, and not just one single one. I don't recall what time we dove the boat, but I remember when we submerged it took a little bit longer to get the boat down below periscope depth. I think the submarine was light, if I were to take a look back at the compensation that might shed some light. The other factor is, and I'm embarrassed to say this, I'm long-winded, and during that lunch hour I engaged the distinguished visitors, this was the opportunity for me to talk to them, so the lunch ran a little bit long my first sitting, not 45 minutes long. I didn't spend an hour and 45 minutes, I dined from 1045 to about 1145.

Q. There's been testimony that due to primary sampling or water chemistry sampling the primary in the reactor plant, that that also delayed you? Can you comment on that?

A. I don't know that that delayed the event, Admiral, I do know that after lunch time at about 1300, I--and you know--with--well, you and I both know with an open mike you can hear what the Officer of the Deck is doing. He picked up the 1MJ, I believe to growl the Engineering Officer of the Watch to get a status of what the primary samples were, so I selected the Maneuvering Station on my 1MJ in my Stateroom, picked up the handset and listened to the conversation. And when I heard them say that it would take a half an hour, half an hour longer from the current point, I knew that that was not acceptable. I didn't have another half an hour to expend on a primary sample. So, I gave direction to the Officer of the Deck to have the sample secured, so the ELT, Engineering Laboratory Technician, could get out of the primary sample sink, get the equipment and nucleonics stowed, and help ready to shut it down for large angles.

Questions by the President:

Q. When you gave permission to sample, did you have this in your calculus, this timing issue in your calculus?

A. Yes, sir. That had been--the permission had been granted earlier in the morning. I don't recall the specific time, but I remember being contacted by the Officer of the Deck on the JX, it's a buzzer that's in the Wardroom, a couple times, and that one permission asked--permission item was asked and I granted that permission.

Q. That was sometime between 1045 and 1145----

A. I don't recall the exact time, but that's when I was sitting in the chair dining with my guests and yes, sir, it would have more than likely been requested at that time. I may be wrong; the best source of information would be to review the Engineering Logs, which would clearly state the time that the primary sample sink was prepared for the chemistry sample for that day.

Q. I was trying to understand from you--from you Commander, what was your calculus in terms of when that sample would be done and when your expectations of when it would be done, because it does seem like it--it does seem like you secured it prematurely. You secured it--you positively secured it before it was completed.

A. Yes, sir, I did, because I didn't want to spend another half an hour with the ELT in the primary sample sink and know that he took an other hour after that to do the Radiochemistry Analysis. An hour and a half on top of that would have put me at 1430 and he would not have been prepared to do the large angles.

Q. I know, that's why I was--I understand when you gave permission, was this in your calculus?

A. I understand, sir, I understand your question now. Excuse me. It's difficult and I apologize. The permission that I gave though in the morning for this special sample would have required the ELT to draw samples from various parts of the primary, and that evolution in itself would take about a half an hour to complete the sample, maybe less actually, I

don't exactly recall the total time, but then the analysis and the chemistry lab is about an hour, once he transports that.

So, if you take a look at the time from early in lunch until after his analysis is complete, I would have expected him to have been done to support the angles. I didn't sit at lunch and go through and factor 20 minutes here, an hour here. It seemed reasonable at the time, when I was sitting having lunch, that the request could be, or that the evolution could be accomplished by the time the second sitting was done. That was an 1 1/2 to 2 hours. I thought--I felt comfortable we could do that. I was frankly surprised though, Admiral, when I heard that the ELT still had another half an hour in the sink then that's when I just said, "No, we're not doing this."

Questions by a court member (RADM Sullivan):

Q. Alright, to get back on our track that you initiated or conducted this day, you go up to the Control Room the way I understand and get ready to do angles and dangles followed by high-speed turns. Is it--you already testified this morning there's always a risk of depth excursions due to the nature of this training or this evolution, correct?

A. Yes, sir, there is always an element of risk in what we do.

Q. So again, I put myself in your shoes. I walk into the Control Room here about--I'm not sure exactly when, but say, right before you start into this evolution, which I believe is 1316 when you started coming up in speed, and I look at this track and I look at the sonar picture, which I recall were the number of contacts maybe was three to the northwest--north? How did you feel about--what was your thoughts on this--your ship, your watch team's situational awareness of the surrounding contact situation and ability to execute these maneuvers, which could end up with the submarine on the surface if not conducted correctly?

A. I had no situational awareness before I walked into Sonar. I stated that. So, I went into Sonar, this area on Exhibit 6, [pointing to Exhibit 6.]

through the starboard door and paused and talked to Petty Officer McGiboney. My understanding when I left Sonar is that I had two contacts, not three. They were to the North, they were reported distant.

I expect my watchstanders to have excellent situational awareness, and if they don't, when they relieve the watch, to acquire it. I didn't question my watchstanders' situational awareness when I walked into Control, Admiral.

Q. But, Commander, if I looked down on the fire control system and saw the geo presentation, which you can page through if it wasn't up, and saw this maneuver--this set of maneuvers of this track, knowing my contacts are to the North, knowing that the submarine has to be driven not only to receive data, but receive data that you can usefully use to solve solutions, that would bother me. Didn't it bother you?

A. Admiral, I wasn't bothered at all when I got in the Control Room. I had just received a report from a fully qualified and competent Sonar Supervisor, Petty Officer McGiboney, who I've served with for 2 years, and he told me they had contact to northeast at about zero-one-zero, zero-two-zero, I don't remember the degrees, and another one to the Northwest, about three-four-zero or so, one was a merchant and the other one he called a small craft and I asked about the range, "What do you think the range is?" He reported distant.

When I walked into Control, I looked at the 81-2 time/bearing display and saw that the bearing drift that McGiboney had told me, which was slight left was, in fact, what I saw on that display, and that the fire control solution that Seacrest was working on also indicated that the contact to the northeast, and I didn't remember the Sierra number, but ultimately this turned out to be the EHIME MARU, was at a range of about 7 nautical miles. So I felt--I felt that my watch team had situational awareness or assay for the contacts that they were tracking.

Questions by the President:

Q. Captain, would you say on that leg, that this time--I mean you got a report that bearing--that range was distant, but you didn't get a report on range on any contact but one, that was from the fire control solution on Sierra 13, which was about 15,000 yards or so, as I recall from testimony. Now is that--for three contacts, is that a very complete contact picture, I mean doesn't it seem like that's sufficient time on a leg to build a much more complete contact picture for the submarine, other than just to say that you're--it appears the range is distant?

A. Admiral--Admiral, when I entered the Control Room, I did not look at--I didn't have the luxury of this reconstructed plot here, Exhibit 4. I didn't see data on this plot that shows the 1230 point, the 1300 point, the 1316 commences large angles. What I did see though, Admiral, were what I considered to be alert watchstanders that had situational awareness. My Sonar Supervisor told me contacts were distant. When I looked at the fire control display and could see the Ops Summary, it was clear that the two contacts to the North were in fact distant, at about the same range. I don't recall exactly what the one to the Northwest was, how far, but I know that it was a merchant, it was going to the left, and I considered that that was a guy that was leaving town and heading out to the Pacific. And, the contact that was to the Northeast was in fact at 7 nautical miles from what I saw on the fire control display.

Q. Well, you said you looked at the Nav Plot when you went into Control, so you knew that you were on this northerly track for some time.

A. Admiral, when I looked at the Nav Plot, it was to determine ship position. I didn't go back and look at the mylar overlaying and see where the Hand DR was or the Quartermaster. I asked the Quartermaster--or looked at the Quartermaster's plot and asked him, "What is the bearing and distance to "Papa Hotel"?" I don't remember the number, but I think it was something like 15 miles----

Q. So after----

A. So, that's what I looked at.

Q. So after steaming for an hour or plus, there was not expectations that your team, sonar and fire control, would have a better picture, like courses and speeds of the contacts and actual ranges other than bearing distant and a certain amount of drift rate. So, your expectations were, you had drift rate and you had bearing, and you had range distance, and that met your expectations on the situational awareness that you got from your watch team?

A. Admiral, it sufficed or it was adequate for my situational awareness. My expectations as the Captain--I've got Mr. Coen and his watch team to establish their own situational awareness as a team to determine the contact picture. I am confident and trust me, I know Mr. Coen, he's methodical, he works to the standard, and if there had ever been a question in his mind as to where a contact was, he would have brought it to my attention. He's done it in the past, and I would have expected him to do it that day, and act no differently whether there were distinguished visitors there or not, sir.

Q. Well I did ask about distinguished visitors, but the point was, you didn't really have much information on these contacts other than that you had a drift rate and a bearing--and range distant, and that's--that was your expectation as the Commanding Officer that day, and that also fit the expectation of your watch team, whether it was the Officer of the Deck or the Fire Control Technician of the Watch, or the Sonar Watch, that they wouldn't do anything active, they wouldn't be aggressive in building this contact picture because there was obviously nothing done--done by those watch teams to aggressively build a contact picture other than to track bearing drift and to make a report that the range was distant.

A. Admiral, when I entered the Control Room, I didn't have the benefit of these reconstructed plots, but I can tell you that my situational awareness was established, and my judgment--what I considered to be satisfactory and adequate, more than adequate to afford for the safety of this ship,

which would permit us to get in to the follow-on events, and I'm talking here on Exhibit 4, increasing speed to 14 knots for angles and dangles and the subsequent large rudder turns.

When I entered the Control Room, I received in my previous briefing with Petty Officer McGiboney, what he held for contacts and he communicated to me clearly that based on his information and holding the contacts in the upper D/Es, that these contacts were distant. And, when I walked out to the Control Room and I saw what Petty Officer Seacrest was working with on the time/bearing plot, which again showed almost straight if not slight bearing drift for the two contacts that McGiboney had told me about, and the one fire control solution that placed the contact to the Northeast at about 7 nautical miles it made sense to me. It made sense to me, a merchant going West, close to the coast of Oahu, and a small craft is what McGiboney reported, which was the one to the Northeast, was in the vicinity of the island as well, what I thought was fishing.

Q. So your expectations of the--of the assay of your team were consistent? Your expectations were that you wouldn't have good range information after an hour and a half and you wouldn't have--you wouldn't know much more about--you wouldn't have any classification other than their range was distant and so that's--you're consistent in saying that that's your standard?

A. Admiral, I didn't say that, what I told--what I said, sir, is that it helped me in my situational awareness. It was clear to me that the Fire Controlman of the Watch had a fire control solution on that contact to the Northeast. I can't tell you that Mr. Coen was active and aggressive in driving the ship. Plates didn't fall off the table, I didn't notice significant maneuvers or pitch in the ship. I can't tell you how Mr. Coen drove the submarine prior to my entry in the Control Room.

My expectations of the watch team is that if they had a contact, that they would have an understanding of the contact location for both bearing, range, course, and speed, because I always taught my men, I won't say always, I made it a point to train my men

that they needed to be ready to go to periscope depth at a moments notice.

There's video footage from the Travel Channel that recorded me as clearly saying that. We had to have situational awareness, kind of like driving on the highway. When you're in your car, you got to know who's in front, you got to know who's behind you, to the left, and to the right, this is on the Travel Channel, which certainly precedes this tragic accident.

And I said, we work in the submarine community in a third dimension and that's going up because when got to go up, we have to know that the surface contact picture supports our ability to get to periscope depth. It was my expectation that Mr. Coen, his Fire Control Team, supported by Sonar, know their contact situation and have assay.

Q. Did you have course and speed on Sierra 13?

A. Sir, I didn't know Sierra 13. I know from the fire control display that I looked, I saw a range, I saw the line of sight diagram, which showed the contact, what I recall looking at at the time, going to the Northeast, and I can't tell you that I remember that the speed was what it was from what I've heard here in the past few weeks in testimony. I just recall that the range--it was distant, it supported what McGiboney had said, and in mind I had an individual or vessel that was out there fishing or driving along the coast, small craft is what McGiboney had told me.

Questions by a court member (RADM Sullivan):

Q. So, Commander, what I've just heard you say--do you operate your submarine on--based on expectations of your watchstanders?

A. Operate my submarine based on expectations----

Q. That's what you just told me----

A. No, sir, by enforcing standards. I don't--I don't assume or expect anything. On the GREENEVILLE, we establish standards and those men adhere to them. It's obvious that some mistakes--

some honest mistakes were made on this tragic day, that led to the loss of life.

Q. But again, putting myself in your position, I know I'm going to do evolutions that could result in getting to the surface unplanned. I walk into the Control Room, I can see that track, I can see it on the Ops Summary, on the fire control system, more importantly, why didn't you ask your Officer of the Deck, or did you ask your Officer of the Deck, explain what he had done in preparations to do these type of evolutions followed very quickly by surfacing the ship. I don't see the connection there.

A. Sir, I had no conversation with the Officer of the Deck, which could evaluate or determine his situational awareness. I knew that I didn't have it and that's why I spent the time in there, in the Control Room and in the Sonar Room determining what that was to provide Mr. Coen with the backup to ensure that the evolutions we were going to perform were safe to perform.

Q. But as a senior submariner you, as a Commanding Officer, looking at this track where your contacts were, it's second nature to know that the information you have what your Fire Control Operator is telling you, is probably not that great. You didn't--your Officer of the Deck did not drive the ship to provide the information to your party, to your team, to solve very confident solutions on these contacts. I'm not saying it was wrong on a given day at sea, but I'm telling you I don't understand why that didn't happen prior to doing evolutions that could end up unexpectedly on the surface, and eventually, within an hour, planning on surfacing. I don't understand.

A. Admiral, I did not look at the Navigation Plot, which would have shown the fact that LT Coen, as the Officer of the Deck, and I'm pointing here to Exhibit 4 at the 1230 position, turn the ship in an orderly direction. I agree with you, sir, that for the benefit of target motion analysis, with contacts that are to the North, the prudent thing to do would be to drive either Northwesterly, Northeasterly, East or West courses to drive bearing rate to get an accurate contact picture. I don't disagree with

that. I agree that that's correct, and having the luxury of looking at this reconstructed plot, if I had entered the Control Room knowing that we had done nothing more than continue to drive the ship in a Northerly direction, I could have provided LT Coen with that backup, but I didn't. I didn't see the Nav Plot, I didn't see the historical information on the Ops Summary, which would have had this number of dots. I can't even tell you, Admiral, what the Fire Control Technician had selected for time history on Ops Summary.

You and I both know that if it's a short time history, it very well may not have even shown this maneuver to the left, which could have been a baffle clear maneuver, I'm not sure what it was, and the subsequent maneuver back to the North. And I'm discussing again here this maneuver on Exhibit 4.

So my point is, is that, yes I expected my watchstanders and my Control Room men to have assay and situational awareness. I didn't have it coming into Control, that's why I spent the time to ensure that I understood the picture, so that I could confirm in my mind it was safe to continue with the follow-on events for that afternoon.

Questions by the President:

Q. This creates a conflict for the members. You're about to go into angles and dangles and it's high-speed maneuvering, there's been some testimony, and I don't think anybody's going to refute it that when you're doing the angles that you're still able to maintain a good sonar track, auto track following as I think it's recalled, but in angles and dangles and particularly in the high-speed turns, we've had testimony from Petty Officer McGiboney and from other Sonar watches that you get high drift rates and you kind of lose the assay, the boat kind of loses the assay in the high-speed turns.

So, it seems to me like there's a lost opportunity here to have the assay on your contacts because you're about to do high-speed maneuvers and then go very quickly to periscope depth, and you're not giving--there's no opportunity for the team to

establish the big contact picture before you do these maneuvers which will lose your assay.

So, your choice then, Captain, is either to build it on the front end before you do angles and dangles or take more time on the back end to build really true situational awareness on your contact picture before you go to other more complex maneuvers--much more dangerous maneuvers that's been described to me like going to periscope depth and doing an emergency blow. And, it seems to me that there wasn't any standard here about either anticipation of how to build this--that you're going to go do something that would lose the assay, or on the other side of it, well, we've just lost our assay, so let's go rebuild it because it seems like we get in a real big hurry right after angles and dangles to go to periscope depth and to do other things.

So, this is why there is a big conflict in our minds about why there wasn't more preparation on this side since angles and dangles was a planned maneuver in the POD. Why there wasn't a better preparation by the team to backup the ship and to backup its Captain about the contact picture. So, that's more of a statement, but if you want to add anything to make sure I understand, so I understand why we weren't prepared before we went to angles and dangles, please help me.

A. Again sir, the one man that didn't have the assay was me. I didn't understand the contact picture and that's why I went into Sonar and into Control was to gain that. You mentioned---

Q. I don't think the team had the picture.

A. Sir--I can't--I can't comment on that because I don't know what was going through LT Coen's head, the Fire Controlman of the Watch, the Quartermaster or the party.

Q. No, but what you do know is that you didn't have any courses and speeds on those contacts. We do know you didn't have any ranges on those contacts other than bearing distance.

Objection by counsel for CDR Waddle, party (Mr. Gittins): At 13:14:02, there was a bearing and range and CDR Waddle has testified that he observed the Fire Control Technician of the Watch's display, which had a range for the EHIME MARU.

PRES: He did, but----

Counsel for CDR Waddle, party (Mr. Gittins): It's a mis-statement in his testimony----

PRES: The course and speed were backwards, so how good is this information? So, it just--it goes to kind of our assessment here of what we're trying to understand--it goes to, are you going to take the opportunity when you're maneuvering the ship to build the assay that you need to go into maneuvers where you are likely to lose it, and if you're likely to lose it, you have two opportunities. You can do it before you go into the angles and dangles or you can do it afterwards. And, we're trying to understand how well you did it before and it seems to me there was no attempt really to do it thoroughly before.

WIT: Can I take this one, counsel?

Counsel for CDR Waddle, party (Mr. Gittins): Please, sir.

WIT: Alright, thanks. Admiral, you mentioned you build the assay either on the front or on the back. At the time, I built it on the front, that was my intent to convince myself when I walked into Sonar that I understood, without any doubt, what we had for contacts that were radiating noise--putting noise energy out there in the ocean, and I knew that when we then moved into the next step, which was angles and dangles, and my team had a handle on the contact picture. I didn't engage LT Coen in discussion because I expected him and his watch team to know what's out there. I've seen him operate for the past 18 months, actually longer, and I know what he does, and I have never had reason to believe that he would not understand his contact picture or that the Fire Controlman of the Watch, Petty Officer Seacrest, my FTOW onboard that ship, better than the

Chief--better than the Chief, didn't have situational awareness.

So, when I walked out into the Control Room, I needed to make sure that I got up to speed, that I understood what was there, and when I saw that, I was convinced that we had done just that, what you said, built up front that assay that was required so that I could get into the angles and dangles starting at 13:16 and I'm pointing to Exhibit 4, and get into the high-speed maneuvers shortly thereafter. I thought we did that, Admiral, at the time.

Q. Did the Officer of the Deck's performance meet your expectations?

A. Admiral, if the Officer of the Deck had performed something that didn't meet my expectation, I would have corrected it.

Q. So, the contact picture you had going at angles that satisfied your standards----

A. I would say----

Q. Not the expectations of the OOD, but satisfied your standards under appropriate contact picture?

A. Admiral, I was satisfied that I understood the contact picture. I can't tell you what Mr. Coen understood at that time.

Q. No, but you're evaluating his performance as the Commanding Officer, you're on the Conn, so you approve of his performance as Officer of the Deck in meeting your expectations?

A. Sir, if Mr. Coen did not meet my expectations, I would have corrected it.

Questions by a court member (RADM Stone):

Q. I'll just add that I find it almost incredulous that as a Commanding Officer, you can determine situational awareness without speaking to the one person who is accountable in your absence for orchestrating that effort. You stop in Sonar, you maybe talk to the FTOW, and then you state 4 or 5 minutes ago, I had no conversations with the OOD regarding situational awareness. He's the person who's charged by Navy Regs to be your representative and orchestrate that effort yet you put no value on a conversation with him by not even asking him, what's our overall situation, what have you done in my absence, how have you maneuvered the ship. These are common questions every Captain asks when he walks on his Bridge. You know, I assume in the submarine community--in Control to find out what your designated representative is doing in your absence, so perhaps you could enlighten me on why would you not ask the basic fundamental question of your OOD on what is your situation awareness, what has the boat been doing in my absence.

A. I had no reason to doubt that Mr. Coen didn't have the situational awareness. From the time that I have observed him as an Officer of the Deck, anytime that I have gone out into the Control Room, he has known exactly what's going on. If he didn't, Admiral, and I suspected something was wrong, I would have asked him or challenged him.

Questions by a court member (RADM Sullivan):

Q. During your--building up your assay as you walked around the Control Room at this point, did you look at the Contact Evaluation Plot?

A. No sir, I did not.

Q. You were well aware of the condition it was in based on testimony, correct?

A. Based on testimony, yes, sir.

Q. If you had looked at it, what would you have done?

A. I would have directed that deficiency to the attention of the Officer of the Deck and asked him why he allowed the Fire Control Technician of the

Watch to fail to keep that plot updated. I have never hesitated in the past, nor has the XO, or any of my other Officers of the Deck to prompt the Fire Control Technician of the Watch to keep that plot updated. I was almost anal about it.

Q. Again, I go back to the situational awareness. That plot is prominently displayed as it shows here on Exhibit 6 [pointing laser at Exhibit 6], right in the center of where all the activity is for contact evaluation, correct?

A. I don't know, Admiral, that I would call it in the center of activity for contact evaluation. I would agree that it is located here on Exhibit 6 [pointing laser at Exhibit 6] on the forward, starboard bulkhead just aft of the Sonar Room to the left of the door, but at the time when I entered the Control Room, there were personnel that were standing here. They may have blocked my view of it. I don't recall seeing the CEP or looking at it.

Q. Your Standing Orders require you to maintain or your watch team to maintain it, correct?

A. My Standing Orders, I don't have the specific words here, if you want to pull those out, I can read from them for you, sir.

Q. I just asked--yes or no?

A. Sir----

Q. Do you, as Commanding Officer, require to maintain it?

A. Sir, I require the crew to comply with my Standing Order, that's a written order.

CC: I have a follow-up question.

RECROSS-EXAMINATION

Questions by Counsel for the Court:

Q. Do you or do you not know if your own Standing Orders require the CEP to be maintained?

A. My Standing Orders require the CEP to be maintained, Captain.

CC: Thank you.

EXAMINATION BY THE COURT

Questions by a court member (RADM Sullivan):

Q. Okay, I would like to press the timeline to the start of the angles. In testimony, as do I understand it, you started off not to a typical of the demonstration of this nature with 15 degree angles and worked your way up to 30's? What I would like to have you to testify to is the direction that you gave to your Officer of the Deck during this evolution, how that was conducted.

A. Prior to the commencement of the angles and dangles after I had established assay in contact or situational awareness, I told the Officer of the Deck to prepare the ship for angles and dangles, actually I made that order or gave that order direction to him in parallel because I knew it would take some time. Dishes had to be stowed. I was concerned about the ELT back aft not having his laboratory equipment properly put away and the sample sink secured. And, I believe--I actually don't recall the specific words that I used, but I either told the Engineer or I told LT Pritchett to go back aft and personally inspect that to ensure that the Engine Room was ready to support the evolution.

At that point, I told the Officer of the Deck, and I don't recall if we went deep first or we came shallow, I believe that the ship was deep at 1316. I don't have the Deck Logs, if we can pull that out, we can confirm that, but if we were deep the first ordered angle would have been a rise angle, and I would have given Mr. Coen an order--or not an order, but direction of this; change your depth to 150, 175 feet, use a 20--15 degree up angle, and that was the manner with which I gave him direction.

Questions by the President:

Q. CDR Waddle, do you know RADM Stone?

A. I've never met RADM Stone, sir.

Q. Have you ever served with RADM Stone?

A. If I did, I'm not aware of it, sir.

Q. You've never been in a command relationship with RADM Stone?

A. I have not, no, sir.

Q. Do you know of RADM Stone's operational background?

A. Sir, I did not read his biography. I don't know his operational background.

Q. Do you know RADM Stone's reputation?

A. I don't know anything about RADM Stone, sir.

Q. Is RADM Stone political to you?

A. Sir, again, I said I've had no connection, association, affiliation with RADM Stone and the first time I saw him was when this court convened. I don't recall ever meeting him, seeing him, talking--speaking with him before.

Q. Okay, do you know RADM Sullivan?

A. Yes, sir, I've met RADM Sullivan before.

Q. Have you served with RADM Sullivan?

A. No, sir, I have not. I have not served under his command.

Q. Do you know RADM Sullivan's operational experience?

A. I know that he was in command of the BIRMINGHAM and I believe that was the second time or so that I had met him. The other time was when I was a junior member on the Nuclear Propulsion Examining Board when he was command of a Trident.

Q. Do you have any knowledge of RADM Sullivan's reputation?

A. I don't know of his reputation, no, sir.

Q. Is RADM Sullivan political?

A. Sir, I can't tell you if RADM Sullivan is political.

Q. Do you know me?

A. Sir, I only know what I've read once and that was your change of command speech. I've never met you and the same thing here, I don't know your political aspirations. I've never served under your

command. I haven't served under any of the board member's command, sir.

Q. Why would I have political aspirations?

A. Sir, I don't know that you do or that you would.

PRES: We'll have a recess until 1300.

The court recessed at 1126 hours, 20 March 2001.

The court opened at 1300 hours, 20 March 2001.

PRES: This court is now in session. Counsel for the Court?

CC: Let the record reflect that all members, parties, and counsel are again present. The court has no procedural matters, sir.

PRES: Counsel for the Parties, procedural matters?

Counsel for CDR Waddle, party (Mr. Gittins): No, sir.

Counsel for LCDR Pfeifer, party (LCDR Stone): No, sir.

Counsel for LTJG Coen party, (LCDR Filbert): No, sir.

PRES: CDR Waddle, before we begin again questioning, earlier you stated that you requested testimonial immunity as taking--and I'll quote, "Reasonable precautions in the event that the international and political environment dictated that I be sacrificed to an unwarranted court-martial."

I want to be clear. Our mandate is contained in the charge to the members of the appointing order given by ADM Fargo. That order is to investigate fairly and impartially all the facts and circumstances in this case. That is the only thing that matters to this court.

You also stated the court felt your testimony was not essential or material to the conclusion of this

court's investigation, that comment misses the point as to why the court recommended against granting you immunity.

You were given the unique privilege to command USS GREENEVILLE. As stated in its recommendation to ADM Fargo, "the court does not support the setting of either a precedent or a perception that Commanding Officers will only provide a full and accurate accounting for mishaps at sea unless they have been granted immunity."

PRES: RADM Sullivan?

EXAMINATION BY THE COURT

Questions by a court member (RADM Sullivan):

Q. Commander, what I want to do is pick up where we left off just to get us all on the same page.

I was trying to walk you through the evolutions of that afternoon of the 9th and we had gone through to the point where we're at high-speed doing angles and followed by high changes in rudder at high-speed. And, part of our discussion was the assay or situational awareness that you felt you had, and we discussed somewhat about what your crew had at the time.

During the evolutions of up angles and high-speed turns, what I took from what you told me was that you were giving pretty explicit direction to the Officer of the Deck. Was that correct?

A. Sir, I didn't say explicit direction. I told Mr. Coen that I wanted him to achieve a 15 degree up angle, a 20 degree up angle and make his depth 165 or 75 feet, whatever those orders were, that's what I told him to do. I made it clear to Mr. Coen the angle of attack that I wanted placed on the submarine as well as what depth I wanted him to achieve.

Q. Did you feel that you had the situational awareness to and that your Officer of the Deck had situational awareness to be able to follow that routine of here's an order--or an ordered angle or an ordered course, or an ordered rudder, during this evolution?

A. Yes, sir. I thought that I had the situational awareness and I also thought that the Officer of the Deck had the situational awareness. In an earlier line of questioning, referring to Exhibit 4, you asked me if I thought that driving the ship on a Northerly course was good for resolving target motion analysis. I wanted to make it clear, Admiral, that if that's all that we had done, then no, sir, that wasn't adequate and it would have been prudent to drive in an easterly, westerly direction putting that speed across the line of sight, so that you get a better solution.

Q. Okay, thank you. You just mentioned that you thought, you thought in your mind, and this is really what I'm trying to get from you, not commenting if it is right or wrong, but you thought your Officer of the Deck had the situational awareness he required to do his job. What lead you to that conclusion?

A. Admiral, I base that on prior experience with Mr. Coen having watched him operate as an Officer of the Deck and I've always been confident in the past that he has maintained that situational awareness.

Q. Did he ever question you or--the word object is too strong, but say, sir, I think we need to do such and such prior to the next step. Did he have any of that type of interchange with you?

A. No, sir, no dialogue. Not pertaining to ship maneuvers, which would have enhanced Target Motion Analysis.

Q. I'm just talking about just doing the evolution itself of angles and dangles----

A. No, sir, no discussion.

Q. Alright, I'd like to continue to walk down the timeline. After the high-speed maneuvers, which ended with you I believe being at 400 feet coming up to prepare to clear baffles at 150 feet. Can you give me--or I'll ask it this way. Can you describe what direction you gave Mr. Coen at this point?

A. Yes, sir. I told Mr. Coen that I wanted him to make preparations to proceed to periscope depth and get to periscope depth in 5 minutes. I told him that knowing that that would be a goal or an objective for him. He's a very thorough officer and if I had left it to his own accord without giving him an objective to work towards--which was brief, I understand that, and facts have also shown that he didn't achieve that accomplishment. He didn't make it to periscope depth in 5 minutes, but I was trying to convey to Mr. Coen my desire to move through this evolution efficiently.

Q. To get from 400 feet on a submarine to periscope depth in 5 minutes, it's certainly achievable, but how difficult is that to do?

A. Well, sir, it wasn't 400 feet. We were at 150 feet when I gave him that order, that's 250 feet shallower than the time. I didn't tell him I want you to get to periscope depth--I don't recall telling him, I want you to get to periscope depth in 5 minutes with the ship at 400 feet.

Q. But even so, let's take it from there. Doing that in 5 minutes, how hard is that to do?

A. That's aggressive, sir.

Q. For someone of his seniority I would--I don't think or at least in my opinion, I'll ask you yours, his ability to be able to perform that after having just slowed down, have to reestablish his situational awareness, your ship's situational awareness, how difficult is that?

A. For this scenario, Admiral, I considered that to be achievable and that was based on--I need to give you a little bit more information here. When we performed the large angles and dangles, I explained to the visitors and passed on the LMC the importance of having the ship stowed for sea. Unfortunately, a little can that I had that my daughter made to hold pens in my Stateroom wasn't adequately secured by

the velcro and it fell off and I heard the pens spill. So, after we secured from the angles and dangles, I told Mr. Coen, come up to 150 feet and slow down. He ordered a full bell and I said no, bring up ahead two-thirds.

I went into my Stateroom at that point, picked up the pens, put them back in the can and put that back on the shelf adjacent to my desk. At that point, I walked forward in the command passageway--and I'm pointing here to Exhibit 6, and entered the Sonar Room as I had done prior to the commencement of the large angles--angles and dangles and the large rudder turns, entered through the forward door, stopped by again and inquired as to the contact picture and observed that Petty Officer Bowie was making his report to Petty Officer McGiboney that they were regaining a previously held contacts. I then exited the Sonar Room and came back into the Control Room and assumed the position here [pointing laser at Exhibit 6] on the forward starboard side of the Conn and gave Mr. Coen that direction.

Q. So when you were in Sonar, that was when the ship was regaining its ability to see the contacts?
A. Yes, sir, that's when we were slowing and coming shallow to 150 feet.

Q. And no maneuvers had been conducted other than a change in depth?
A. No, sir, no other maneuvers other than slowing and changing depth to 150 feet.

Q. I've certainly picked through this, reading your Standing Orders, which are standard Standing Orders from the Type Commander, certainly it's guidance for you and direction for your juniors that talk about legs--baffle clearing legs of the order of 3 to 5 minutes, so if I do the math I get the--I come to the conclusion that you put your Officer of the Deck in a situation that he can't possibly do following your direction. Is that a wrong assumption?
A. Sir, based on the information in my Standing Orders, which does say, and it is in Standing Order 6, the TMA leg should be 3 to 5 minutes. There is no way that he could have achieved that 5 minute goal. I gave him 5 minutes as an incentive, as an

objective for him to work his preparatory efforts in getting the ship to periscope depth, so that he would make a more efficient effort in achieving that objective. I knew that Mr. Coen couldn't get to PD in 5 minutes. I doubt that any of my experienced Officer of the Decks could have gotten to periscope depth in 5 minutes.

Questions by the President:

Q. Captain, to ask--to follow-up on that, if Mr. Coen's reputation as being very thorough and meticulous--and sometimes we read between the lines and we take that to be slow sometimes--it is implied by other watchstanders, but how is that consistent then with you know you have the TMA leg requirement. He's obviously meticulous, he understands exactly your Standing Orders. Did he try and reconcile your goal and the Standing Orders that he is working under because he still has the Deck, right? He's still the Officer of the Deck. That is one question.

The other one is how do you take advantage then of a watchstander, particularly an Officer of the Deck that is thorough, if you don't give him the time to be thorough?

A. Admiral, LTJG Coen maintained the Conn and the Deck throughout this whole evolution. He did not relinquish the Conn to me. When I gave him that order to get to periscope depth in that abbreviated period of time, it was my objective to give him a goal to work towards, knowing that that was not achievable.

How did I take advantage of Mr. Coen? It was not my intent to take advantage of Mr. Coen, but to move the evolution along. I wanted to get the ship to periscope depth to prepare us for the EMBT blow, and in hindsight, you know, had I given Mr. Coen and the ship Control Party that time, it would have made a difference, but at the time in my judgment with my situational awareness, and what I knew of the contact position to be, or positions to be, I thought it was a correct action.

Q. But, when we had that discussion about--I thought we had this discussion, when we were talking about angles and dangles, there's a period of time to rebuild situational awareness. Now let's just--so I can understand, there's a period of time then to build situational awareness whether you're going to periscope depth or not, out of angles and dangles? But, there's also the standing requirement to do two TMA legs, in your Standing Orders of 3 to 5 minutes, so let's go to the minimum of that and that's 3 minutes on each leg and that goes to RADM Sullivan's point, that's 6 minutes then.

But, that's still while you're at 150 feet, that doesn't include the ascent to periscope depth, which I don't know how long it takes, a minute, a minute and half, I'm not sure, but--a minute and a half?

A. It could, sir, it could take longer depending upon the ballasting of the ship.

Q. Okay, well, let's call it a minute and a half, so I think the minimum we're talking about there is 7 and a half to 8 minutes.

A. Yes, sir.

Q. And, so can you explain to me--it's seems like the conflict again. You have a thorough Officer of the Deck that you put into conflict with your own Standing Orders, although you can as Commanding Officer can choose to override your own Standing Orders, but this is a DV embark, this is not a tactical situation. And so, I'm trying to understand what the goal was going to do for the Officer of the Deck and did he try to reconcile what is a 5 minute goal with an easily 7 and a half minute evolution to do it properly and thoroughly, which was his reputation.

A. Yes, sir, clearly doing the math, not achievable. It couldn't be done and I agree with you, Admiral, but as I stated when I exited the Sonar Room and Sonar was regaining the two contacts that we'd previously held, and I addressed the fact that I had front-loaded that situational awareness prior to the conduct of the angles and dangles here on Exhibit 4 [pointing laser at Exhibit 4] starting at 1316 and concluding with the end of the large rudder turns at 1331, that 15 minute period, I

considered that the contact picture had not changed from the brief period that I was in Sonar. I was wrong, Admiral, I was wrong.

Q. Okay, well let's go back to the contact picture here {pointing at Exhibit 4}, you were never aware of a course and speed of Sierra 13, right?

A. No, sir, what I'm--well, I was aware of the contact range--I tell you, I can't recall the exact course and speed, but I do remember when I looked at the fire control display from the line of sight diagram that the arrow was going up, it showed something driving towards or parallel to the coast. I can't tell you that I remembered it was 11 knots. I just don't remember.

Q. Okay, but I mean--to go back to--I don't recall any report by FTOW or validation or team--Sonar, FTOW, OOD description of the course and speed because there was no plot on the CEP at that time. What I'm trying to understand--so that--we haven't really reconciled or we haven't resolved Sierra 13's course and speed.

A. That's true, Admiral, there was no open discussion that I heard while I was in Control between the Fire Control Technician and the OOD or myself regarding that solution.

Questions by a court member (RADM Sullivan):

Q. Commander, to follow-on with this discussion, again, I'm trying to understand what was going through your mind. What was your rush? You talked earlier about you knew you were late, but didn't seem to bother you that much. What was your rush?

A. No rush, Admiral. Again, I gave Mr. Coen what I considered to be a goal. I didn't question its achievability in doing the math, Admiral, but I gave him a goal, "I want you to get to periscope depth in 5 minutes." I wasn't rushed, if I had been rushed, I would have put the photographs aside--the DV pictures aside, I wouldn't have said to the XO that we can't afford to be late, we've got to hurry up and get through these, hurry up and do all this--none of that was ever discussed. I didn't say those words. I was not rushed, Admiral.

Q. But, Commander, as the CO of the submarine, if you say you want, you know, a compartment painted blue and white, the next day it's going to be blue and white, you know that.

A. Yes, sir.

Q. And when you say to a young officer and his team, give him that challenge, what I see is all the things that are normally done on GREENEVILLE, according to the testimony that we've heard, the brief of watchstanders prior to going periscope depth, was that done?

A. No, sir, that was not done. The watchstander brief was not performed.

Q. Was there a--we already discussed the lack of time on each of the TMA legs, that wasn't done, correct?

A. Sir, we did not spend a full 3 minutes on each TMA leg.

Q. But as CAPT Kyle showed, if you had stayed on that--the fact that you had a fairly close contact, his bearing rate I believe was over 10, that would have been easily distinguishable by anybody who was part of your party, correct?

A. Yes, sir, and if I'd stayed on that leg for 3 minutes and I'd have seen that bearing rate, I would have known exactly what that meant and would have taken action to respond to that, as would have my watchstanders.

Q. So, the part I'm having a hard time resolving is your Standing Orders, which are from the Type Commander, both Fleets, no matter where you go in any submarine, the United States Navy has--we all do it the same way. Why did you set aside these principles that are--that have been founded in blood, lessons learned, what people ahead of us--what was the rush? Why did you give that type of order that caused, indisputably, to have your watch team forego, not do, the types of things that they are used to doing?

A. The 5 minute time limit was artificially imposed by me to Mr. Coen. Looking back on it, Admiral, that was wrong.

Q. Okay----

A. The second thing, I mentioned when I exited the Sonar Room and came into Control, knowing that we had regained the two previously held contacts--what I thought were the two previously held contacts to the Northwest and Northeast, I didn't think that the contact picture had changed. I was confident that those contacts remained close along the Oahu coast operating in that vicinity. And as such, I didn't have the AVSDU to look at and I thought that the leg that we were on, the three-four-zero course, was long enough. When I considered that it was long enough, it was at that time when I told Mr. Coen, "conduct your baffle clearing maneuver, let's come right to--I think I told him come right to course one-two-zero."

Q. But, when you looked--you went into Sonar and looked at the Sonar Display, which as we've discussed a number of times was the only place it was available, you looked at it when the picture was just starting to develop. I thought as a Commanding Officer or Conning Officer going to periscope depth, the purpose of a baffle clear was to change course to one, unmask possible contacts in your baffles or second, to force a change in bearing rate so you could see it. And, so if you didn't go back--I'm having a hard time with this, if you didn't go back and look at Sonar after you conducted a maneuver, what value was it to even look at Sonar?

A. The value of looking at Sonar or stopping by in Sonar was to determine what contact Sonar had. I agree I did not stay in Sonar and pause on that initial TMA leg. I paused to check and see how the Sonar picture looked, to see what the Sonar Supervisor and Broadband Operator were gaining. They were regaining contact as the ship was coming shallow to 150 feet. When at 150 feet, and I considered--for the time lapse and I can't tell you exactly how many minutes it was, but my gut feeling was that it had been long enough. I then gave Mr. Coen that order to come right to course one-two-zero to perform the baffle clear, so we could take a look and see what was behind us or what we couldn't hear in that baffled area.

And by coming right to course one-two-zero, it was also my intent, Admiral, if we look at Exhibit 4, that I provide speed across the line of sight. Now, granted, not all my speed is across the line of sight, if I had stayed on course zero-nine-zero then that wouldn't have been an adequate baffle clear, one-zero-zero would have been for initially being on a three-four-zero leg, but I chose to come right to one-two-zero and in doing so, I thought at the time that I was providing the adequate speed across the line of sight to drive any noticeable bearing rate to the contacts that were to the Northwest and the Northeast.

Q. If you were trying to--again, I go back before a procedure, certainly there is many times when you have to get to periscope depth quickly, nobody who has had command of a submarine would disagree with that, but I don't understand why didn't you just take the Conn from the Officer of the Deck if you felt you needed to get up that quickly?

A. Sir, when a Commanding Officer takes the Conn from an Officer of the Deck that causes embarrassment to that officer if it's not an emergency or tactical problem. I've had the Conn taken away from me as a junior officer and that caused me great embarrassment. I would not do that to Mr. Coen if--if I didn't--I would do it if I felt it was necessary and I've done that on one occasion in command and once only where I've taken the Conn and that was to get the ship to the surface to preclude an out of area incident. But, in this case, Admiral, Mr. Coen, in my mind, watching him was doing his job. I unfortunately and regrettably gave him that artificial time limit and knowing what I know now, if I hadn't done that, we wouldn't be here today having this conversation.

Q. But Captain, I think--I agree with what you said, but there is more to it. When you put your Officer of the Deck, your representative, in a situation that's beyond--over his head or he is incapable, you have an obligation as Commanding Officer to assume that responsibility and as RADM Konetzni talked about a few days ago, when you decided to put it on your shoulders, you better be right.

A. And Admiral, I was wrong.

Q. During this baffle clear, a new contact emerged near the very end of the three-four-zero leg as I recall, Sierra 14. Based on your ship's track, there was no further analysis other than continuing to--which you had directed as a course to clear baffles at one-two-zero, can you shed some light on why you wouldn't have done extra TMA to resolve that target's ranging?

A. Yes, Admiral, it wasn't clear to me that Sierra 14 was a new contact, and the reason for this, and again, you know, if it had the AVSDU on the Conn, I could've seen 12, 13, all the other numbers. You know because I didn't have that, I didn't have that Sierra number ingrained in my brain. I remembered here, pointing to Exhibit 4, before we commenced the angles and dangles at 1316, that I had two contacts, one to the Northwest and one to the Northeast. If I'd had the AVSDU, Admirals, I would have known those Sierra numbers, but I didn't. And as such, when we made the maneuver to the course of one-two-zero and Sonar reported, I've got two contacts and from the testimony I've heard Sierra 14, Sierra 13, it was two contacts and I didn't recognize it as a new number. And, that's the problem, if I had recognized it, I would've acted upon it, and I don't think it was clear to the Officer of the Deck either. Why, because not having the AVSDU, it handicapped us.

Questions by the President:

Q. Well, Captain, explain something to me then, you've testified before that you had problems with the AVSDU before, it has gone out of commission?

A. Yes, sir.

Q. And so, I assume it's happened to you while you're underway doing tactical ops or your training--your being tactical. And, I assume you've also had a lot more contacts than three at a time, so there's something about, you know, the way you're brought up, you're brought up as a submariner, you've had a lot of experience as an Officer of the Deck, you've had experience as XO, experience as a Department Head, experience as a junior officer, and one of the things I think that the submariners were brought up with--and anyone that works on a Bridge or has a Deck or works with it a lot, is when you get a new contact number, particularly in your world, which is all about situational awareness, that Sierra 14 is like a bell going off, it might as well be a gong. It's got to be a gong going off in the head of the people in Control.

And so that gong goes off, it seems to me that that doesn't quite reconcile the fact that, well, I don't have the AVSDU, you've operated without the AVSDU before, you've operated in high density contacts before without an AVSDU, now you're in low contact density, now you get a new contact and no bell goes off?

A. Admiral, I'm not going to tell you that I've operated with the AVSDU out of commission, in high contact density. I stated that the AVSDU has failed before. When that occurs, the ship does two things, you remain deep and you repair it or you come to periscope depth where you have your ability to determine your contacts and fix it there. I can't tell you exactly what we did when it broke the previous time, it may have happened when we were inport, but your point is well made, when the new contact Sierra 14 was gained, the Sonar Supervisor knew that, the Broadband Operator knew that, I dare say that that non-qualified under instruction watch knew that, as well as my FTOW. The teamwork broke,

no one raised the flag, no one said, "hey, we need to get another leg of data on this guy and we----

Q. Well, let me explain--let me understand the teamwork here then. Sonar made that report, that's part of that--so, they made a report. The FTOW acted on it in terms of try--he said he got distracted trying to prosecute Sierra 14 yesterday in his testimony, spent a lot of time trying to workout that fire control solution to everyone's regret because he spent less and less time on Sierra 13. So, what was the Conn doing? What was the Officer of the Deck and you doing with Sierra 14? I'm sure LTJG Coen heard it, you say you didn't hear it, but how did the Conn react to the new report? Did he mention to you, "Captain, we got a new contact, we need another leg?"

A. No, sir, the Officer of the Deck didn't mention that--recognize the new contact, and that we needed another leg. What I know, I thought two contacts going into the baffle clear maneuver, two contacts coming out, same guys, I was wrong. If the Fire Control Technician of the Watch had recognized this as a new contact, as well as the Sonar Supervisor, I would have expected some backup when the next phrase you heard, "All stations Conn proceeding to periscope depth," knowing we've done no TMA maneuver on this guy to determine the contact range and whether or not this guy is close or far away. It was wrong.

Q. Does the Officer of the Deck typically give you a kind of a contact summation that prepared to go--does he give kind of "I'm prepared now, Captain, to go to periscope depth, let me give you my contact summation?"

A. Sir, in Standing Order 6, it addresses the periscope briefing where the Officer of the Deck talks to all of his principals. Not in the Standing Order though, is the litany--there is guidance in my Standing Order that says, "when you're ready to proceed to periscope depth, the Officer of the Deck will make the following report: Captain, I'm on this course, this speed, this depth. I hold the following contacts, Sierra so on, bearing range, CPA and such."

Because I'd been in the Control Room since the period preceding the angles and dangles here at 1316 on Exhibit 4 [pointing laser at Exhibit 4], I thought I had assayed, and therefore in my mind, I justified the Officer of the Deck not making that report. And, you know what, that was wrong because if the Officer of the Deck had made that report, it would've been clear to me that we didn't have a solution on Sierra 14. I would've recognized the new Sierra 14 and done TMA maneuvers to resolve that.

Q. Your assessment is he didn't make the report because of your guidance to be at PD at 5 minutes?

A. Yes, sir, that--I would speculate that that contributed to that, but the fact is, that when the ship was steady on course one-two-zero and Mr. Coen made the report to Sonar, "Sonar, Conn steady on one-two-zero, report all contacts," and Sonar reports, "Sierra 14, Sierra 13," my next response to him was, "Mr. Coen, proceed to periscope depth." "Proceed to periscope depth, aye, sir," and that's what happened.

Questions by a court member (RADM Sullivan):

Q. The--Petty Officer Seacrest testified yesterday that he overheard you say something to the effect, I feel comfortable with the contact situation, is that what you said?

A. I don't remember saying that, Admiral, but I did feel that I was comfortable with the contact situation and understood where the contacts were.

Q. But, you see where we're--you gave up your backup by not forcing to make sure your team had the same opinion you had?

A. Admiral, I did.

Questions by a court member (RADM Stone):

Q. Before your testimony, over these past 11 days, we've heard comments regarding the role of the Officer of the Deck and I have to admit that prior to your testimony, I was saying to myself, well, the OOD basically didn't play much of a role here as far as backup, he's sort of viewed in a parroting role and really called into my mind the question of whether he's much more than sort of a potted plant in Sonar--in the Control Room. And, so now when you come in and testify today in answer to the question, did you ask the Officer of the Deck about situational awareness after lunch, you told us you had no discussions with him on that. And, now this afternoon when we said before you commenced the maneuvering drill, did you have a dialogue with the Conning Officer, Officer of the Deck, "No, I had no dialogue with the Officer of the Deck regarding upcoming maneuvers."

And, then asked about the periscope brief, no I had no briefing from him, you've done nothing but confirm this whole issue of the OOD isn't being used for much here other than, he's just reacting to what you're telling him to do and you're losing all the backup of what we've designed for the OOD to be for safety of our ships, so I'm little bit confused here about what role do you see your OOD playing if you're not asking questions that are incumbent with having the deck and the Conn? And, why would you be surprised if we didn't think then, that although in name he has the deck and the Conn, that you're driving the whole show here?

A. Admiral, there's a few times in my command that I have been directive to my OODs. One of those times happens to be during angles and dangles where the ship is changing depth and large rudder turns. At all other times, I expect and I entrust the Officer of the Deck to carry out my Night Orders, whatever Standing Orders that I have in place and to follow the Navigator's plan, in addition to the Executive Officer's Plan of the Day. On this date, for this period of time from shortly before 1316 until the collision occurred at 1343, I was directive with the Officer of the Deck making it clear to him what I wanted him to do as far as

maneuvering the ship, changing its course, speed, and depth.

Questions by the President:

Q. Captain, you have created an impression in your Navigation Officer's mind about how directive you were with Officers of the Deck. He was concerned enough to make it part of one of his statements, that he felt that you had become directive enough to the point that we were losing--the ship was losing training opportunities, i.e. the Officers of the Deck should be allowed to do things more on their own, therefore, make their own mistakes. And, that because you have become directive or because your style has become directive in that nature, so it wasn't--to me it wasn't just this event, it occurred enough that your Navigation Officer, who watches all the Officers of the Deck, felt that your style had become at that time actually degrading their capability to be more complete as a watchstander as Officer of the Deck. Do you disagree with that?

A. I disagree that that was the way that I handled my Officer of the Deck--Officers of the Deck through my tenure in command. The reason the Navigator brought that to light was because of the previous week's event when we did a sound monitoring exercise with another submarine. I dismissed his recommendation at the time because I was more concerned about the ship's positioning, making sure that our recordings were of the best possible quality because it was important that we collect this data to help our sister submarine.

That being said, I was very directive with the Officer of the Decks for about the first--or the Officer of the Deck that day, which I think may have been Mr. Coen, I don't remember, it may have been Mr. Douchet, one of my other junior officers or one of my junior officers, but I was directive for about the first half an hour. I took the Navigator's advice on it and I said, "okay, alright" and walked in my Stateroom, sat down, ensured the open mike was turned up and I watched from a Flat Panel Display. And you know what, the guys did fine and they carried out the rest of that evolution without any direction from me.

Q. Well, you gave an example of--to this Officer of the Deck, that you gave him a goal of being to PD in 5 minutes. Did you take--in your description, you said you had very little collaboration, exchange with the Officer of the Deck, and when you started doing angles and dangles, did you give him a pre-brief of things that you wanted him to accomplish? In other words, from a trained evolution, angles and dangles are difficult, it's difficult for your Helmsman, your Lee Helmsman, your Throttleman, there is a lot to be done there, there's a lot to be coordinated.

Did you think in terms of developing them, your Officer of the Deck, that I should give him a brief or a goal of what I want him to do for angles and dangles, so he could perform those for you and he would have a better situational awareness because he knows where he's going to go, otherwise, he does be kind like--I think like RADM Stone and he becomes kind of your parrot. Where he's waiting for you to tell him the next angle, the next depression, the next turn, the next speed, the next ordered course, the next rudder angle.

And, this takes us to kind of the sense now that you're taking charge, you're in control, although he's the Officer of the Deck for all practical purposes, you have the Conn without saying you have the Conn, and you certainly have taken the deck because you've taken responsibility for all situational awareness and control at that time, and so, do you disagree with that kind of summation?

A. Admiral, again, I didn't formally take the Conn, I didn't formally take the Deck. I gave Mr. Coen clear direction knowing that we were going to do angles and dangles with the ship starting out at a deeper depth, 650 feet or whatever it was. I made it clear to him that I wanted to come shallow with a 20 degree up and go deep with a 20 degree down, followed by a 30 degree up and a 30 degree down. Now, I didn't spell that out for him, but that had been common practice when the ship had performed angles and dangles. We didn't immediately jump into a 30 degree up and a 30 degree down, we worked our way into it, very much in the manner that I asked the ship Control Party when we did the large rudder

turns. "Fellows, how long has it been since you've done this." "It's been awhile." "Okay, well start into this easy." Starting into this easy wasn't right full rudder, left full rudder, it was left 20, right 20, then left 30 right 30 or so on. So in that case, I could have communicated better with the Officer of the Deck, I obviously didn't communicate my desires up front, I should've done that.

Questions by a court member (RADM Sullivan):

Q. This baffle clear on Exhibit 4, three-four-zero to one-two-zero, the testimony I've heard and reports I've read, I see a baffle clear that was short, the ship hadn't steadied really much more than a few seconds, 20, 30 seconds something like that on the first leg. You maneuvered the required 120 degrees to uncover your previous baffle area, we pickup a new contact somewhere through there.

We steady on the second leg and proceed to periscope depth shortly thereafter on the course of one-two-zero that--with projection you--we've been through the testimony where it says, is a collision course with one of your contacts at 6 1/2 minutes. Does that sound like a well executed, efficient baffle clear?

A. Admiral, the baffle clear accomplished its objective. It determined that no contacts were behind the submarine. Referring to Exhibit 4, where the ship on course three-four-zero and maneuver to the right, we confirmed that there was no one to the South and the logs reflect that fact, that's the purpose of the baffle clearing maneuver, in addition to performing target motion analysis on contacts held. If I had known that I had a contact that was close and was a possible collision threat, I wouldn't have continued with those evolutions.

Q. But, Captain, that's the dilemma I have, I was taught a long time ago, I think you were too, to listen to your ship, as a Captain, it will give you the right answer. Looking at the displays that your Sonarmen had, what you put your FTOW--what he had to work with, what your Officer of the Deck had to work with, on that given day there was never integration time, there was never a time for the ship's sensors to work in consort with the ship's computers and your watchstander's mental backup, mental jam, or as we talked about doing it by hand. To allow the picture to ever come to the point where you could safely call--or you could call this a safe ascent to periscope depth. I'm having a hard time with that.

A. Admiral, it was a safe ascent to periscope depth.

Q. On a collision course?

A. I didn't collide with anything at periscope depth, Admiral, and I made a----

Q. You were on a collision course. If you project your track at one-two-zero with EHIME MARU's track of one-six-six, if neither ship did anything, with 6 1/2 minutes, you would have collided at periscope depth.

A. Admiral, at the time I didn't have the benefit of this information. Listen to my ship? I listen to my men. What the FTOW had to work with, I think it's been clear that he had a solution. What I saw on his display lead me to believe that the contacts were far--distant on exhibit 4 close to the Oahu coast, that's what I believed it to be.

Didn't allow the equipment to integrate, catch up, work in consort with the ship's computers? I disagree. We had information, we didn't have the benefit of SLOGGER data or the one exhibit where we've shown--that gives a time/bearing display that isn't representative of what the Fire Controlmen and Sonar Operators look at. But I agree, if I had stayed on that leg, the three-four-zero leg longer, I would have seen that high bearing rate and would have known that a collision threat or a threat to own ship existed, but I didn't.

Q. Alright, Commander, let's move here on our ascent to periscope depth. Testimony that we've received, pretty much the Officer of the Deck when you directed him, conducted the normal checkouts of the periscope, proceeded from 150 feet to 60 feet. The Diving Officer really didn't have a chance to trim, but that's your decision, it's not that important in reality. We get to periscope depth, your Officer of the Deck does his initial three searches in low-power looking for close contacts or collision threats, correct?

A. Correct, sir.

Q. At that point you assumed to take the scope from him?

A. I took the scope when Mr. Coen commenced his air search.

Q. Could you, in your own words, describe to me what you did with that periscope and what your objectives were and what your ultimate goal was of trying to do with your search?

A. My ultimate goal, Admiral, was to ensure that the surface picture was clear, safe of any obstruction that could have been a threat to own ship in preparation for the emergency blow that the ship was going to perform. When Mr. Coen completed his first three initial sweeps, I watched on the AVSDU that was both on, and I'm referring here to Exhibit 6, on the starboard side of Control, as well as the one on the port side, which is slightly aft of the Chief of the Watch.

Q. You mean the PERIVIS?

A. Excuse me, yes, sir, PERIVIS, thank you. I asked the distinguished visitors, those that were here on the starboard side, "Please move, so I can have an unobstructed view of this", and they accommodated my request. Prior to going to periscope depth, I also briefed the Control Room Party, as well as our guests on the importance of maintaining quiet. I said, "Control is church, we say nothing during this period where we're going from 150 feet to PD, it needs to be quiet so the Officer of the Deck can hear his watchstanders in the event there is an issue."

Now, I'm at PD, the three sweeps that Mr. Coen made in low-power revealed no close contacts. Shortly thereafter, I heard from the Electronics Surveillance Measure Petty Officer, Petty Officer Carter, that he had no threat contacts. I felt a sense of relief that there was nothing close by, there was nothing that was a threat to my ship, we'd safely reached PD. Sonar reported they also had no threat contacts. When I saw Mr. Coen transition from the surface look, elevating the periscope now for the air search, I took the scope from him. Did a low-power 360 degree sweep, it was slower than the quick look that the OODs do for a close contact, I can't tell you the time, but knowing what I do it was slow enough to pan and see the horizon, I recognized that the ship needed to be raised. When I stopped looking astern, abaft my starboard beam, and then asked Mr. Coen, "Bring the ship up a couple of feet."

Questions by the President:

Q. Captain, I want to make sure I understand this, there's been testimony about Mr. Coen's search, I think the words are, "a proper search." Is there a proper search standard for the Officer of the Deck or is it a--in your Standing Order about what the Officer of the Deck should do? It's the 360's right, it's the air look because it wasn't tactical maybe not necessary and then there's supposed to be another 360 degree sweep, does that recall?

A. Yes, sir. Following the Officer of the Deck's initial three sweeps to determine no close contacts, he then does an air search, max in elevation, panning down until he reaches the horizon, calls out, "no airborne contacts," and then the next thing he does is he goes into a 360 degree low-power search, takes about 45 seconds and then begins there a 90 degree high-power sector search on the point where he terminates the 360 low-power. It was at the time he commenced his air search that I intervened, took the periscope, so that I could confirm there were no close airborne contacts and then I wanted to look down the lines of bearing in the direction where I knew contacts to be to perform my high-power search and verify that I didn't hold those two sonar contact visually.

Q. Well, can you explain the sense of urgency that made you take the periscope from the Officer of the Deck before he completed his proper search, which I assume by proper search in your Standing Order, it's an order, it's a standard, why--why the rush to take it from the OOD?

A. If the ship is going to remain at periscope depth, Admiral, to carry out evolutions such as ventilating, transmitting a message, shooting trash, then that periscope search technique that I talked about, the 360 degree low-powered search followed by the high-power quarter quadrant sector search, is there for safety of ship. We'd established based on Mr. Coen's observation, that there were no close contacts supported by ESM and Sonar, so I was interested in doing my own independent low-powered search to verify there were no close contacts and then follow it up with a high-powered search to look down the line of bearings to make sure that I didn't hold those sonar contacts visually.

Q. So, the proper search is for safety of ship?

A. While the ship remains at periscope depth, yes, sir.

Q. So, why interrupt it? Why not let him have the opportunity to do this proper search as are your orders? I don't think your Standing Orders have all those exceptions you just went through, they just say conduct a proper search and this is what you're supposed to do. It doesn't say if you're going to dump trash or do this and then you're obliged to do this search, it says when you go to periscope depth you're supposed to conduct this proper periscope search with no exceptions, so why interrupt the Officer of the Deck? What's the urgency to interrupt his search?

A. There was no urgency, I wanted to confirm that what the Officer of the Deck saw or didn't see was in fact, truth, and so I took the scope from him to do the low-power search and follow it up with a high-power search.

Q. Did you see a lot of waves slap on the periscope head?

A. I don't recall wave slap, Admiral, but I do recall that in my low-power search that the height

of eye was not adequate to afford me the opportunity to look over the tops of the waves, so that's why when I ended up looking just abaft the starboard beam and if you could picture this, I'm looking aft, the periscope is trained over in this direction. I told Mr. Coen, "Bring the ship up a couple of feet," and then I started my sweep to the right with the high-power to look and make sure there was nothing. I could see the land mass of Oahu. I couldn't see the land in the mid-part, I could see the black points of the mountains.

I saw an aircraft take off, I think it was a 747 maybe a DC-10, so I knew the visibility to the horizon at least 13, 14 miles appeared to be good. But I knew that the height of eye wasn't high enough, so I told Mr. Coen to bring the ship up a couple of feet. I heard him order a depth of 58 feet, went back to low-power and continued to pan right to three-four-zero. During that period while I was panning, I turned off the PERIVIS to see if that would make a difference on what I was seeing, it didn't. I looked at the Ship's Data Display for the bearing, the three-four-zero, went to high-power--it was during that time. I felt the ship surge up and as it surged up, I thought to myself, "this is a good look, this is good, I'm up over the wave tops" and I looked down the line of bearing at three-four-zero and saw nothing. I was in time 6 power, flipped over to zero-two-zero, went to 12, hit the doubler, saw nothing there, flipped back to low-power and continued my pan to the right. I ended up ultimately with the scope facing forward and then called the emergency deep.

Q. Captain, since you've had GREENEVILLE as Captain, how often have you not been in Control when you go to periscope depth?

A. I can't count the times. There are times when-- it's better for me to quantify it in this manner. If we had three or more contacts, or if my Officer of the Deck needed me there to take his report if I was in my Stateroom, in the Wardroom, whatever, I'd come to Control, so he could give me the brief and then I could see what was going on. If it was one or two contacts, that report would come over the JX and then because of the flat screen panels we had

throughout the ship, I could select it to PERIVIS and monitor his progress in taking the ship to periscope depth if I wanted to. Was I always on the Conn? I was on the Conn with some of my more junior officers----

Q. No, I don't mean on the Conn. I mean how--in Control?

A. Well, I call the Conn, Control, Admiral.

Q. Okay, Control----

A. Yes, sir, I was in Control during periods where I had say, a newly qualified Officer of the Deck taking the ship to periscope depth by himself for the first time. I would do that intentionally, so that I could observe him, maybe not let my presence be known, I could stand back off to the side, give him the permission to go to periscope depth and just watch and observe how he did business. There are other times where a newly qualified officer we put him on the morning watch or the afternoon watch, so that the XO was up or I was up, we were there to provide him backup or listen to what he was doing.

Q. Okay, so if it's a new Officer of the Deck you tended to want to be there to observe his techniques?

A. In the early days following his initial qualification, yes, sir, but it was also important for me as the Captain to maintain some kind of balance there. If there were a lot of contacts, regardless of the OOD's experience, it was easier for me to come into Control and take that report, whether he be the Engineer or the most experienced guy or junior.

Q. I want to go back to this thing about taking the scope. I'm not quite sure how often you are in Control or on the Conn in a percentage basis when you went to PD, but you just--we know Mr. Coen is a relatively new Officer of the Deck or has a reputation of being a relatively new Officer of the Deck and that he doesn't have a whole lot of time on the Conn and you say you would frequently go there to observe their techniques or to watch their standards, but you interrupt his periscope search so you have no chance to watch his technique. You have

no chance to get another set of eyes on the problem and you again, conflict I think this Officer of the Deck with what he's supposed to be doing when two-thirds of the way through or half-way through his periscope search, you take the periscope from him, so you can't do what you say you typically do. So was it your habit to frequently take the periscope from the Officer of the Deck when you're in Control?

A. No, sir, it was not my habit. There were times though, if we were involved in a Joint Tactical Fleet Exercise and the submarine was coming to periscope depth in proximity to warships, that after that initial search was done, air search was done, I would take the periscope to look and confirm that we didn't have close contacts or collision threats.

In this case, because I was in Control, had observed this entire transition up to periscope depth, I'd heard Mr. Coen say he had no close contacts, I wanted to confirm that. He had been qualified now for more than 6 months as an OOD and there's a period of time where he stands watch as OOD surface and OOD submerged, where he doesn't have his dolphins, but I still have the opportunity to observe him. Mr. Coen was thoughtful, methodical, and thorough. When he reported no close contacts, I took the scope to confirm that.

Questions by a court member (RADM Sullivan):

Q. Alright, Commander, I listen to what you're saying and I take it onboard and I didn't look through the periscope, so I don't know how it was relative to wave height--it's always has to be anchored to whatever the insitu conditions are, but the things I do know are, you are at periscope depth, with your ship for 80 seconds or so. There was no tactical situation, scope exposure isn't a player here. Your search was only in one sector other than the 360 degree look in high-power, that you actually did acute search, which is probably not the right way to say that in the sense that your FTOW was standing by to queue you, as we heard yesterday, but never got direction to be queued.

In the area that your ship's operating, you know, we never assume we know all the contacts, but even more

importantly when you're in sight of land where you could have a sailboat, a fisherman dead in the water, where acoustic queuing would be of no value because it wouldn't exist. Can you explain to me how you felt when you called emergency deep that you had an adequate understanding of the visual picture at periscope depth? Because, as RADM Griffiths testified, this is clearly your last good chance to have avoided this collision.

A. Sir, I understand it was not a tactical situation and agree it was not. I conducted my high-power sector search in the direction where known sonar contacts were to have exist. The Fire Control Technician of the Watch, if he felt the need to queue me or to train the periscope--assist me that is, to train the periscope on the line of bearings, could've done so. However, I was able to pull back away from the scope, look over to the Ship's Data Display and train the periscope and get it on the line of bearing of three-four-zero and also to zero-two-zero.

I am confident had the periscope not been pointing in the direction where those contacts were and the FTOW recognized that, he would've said something, but he didn't. The one single sector that I looked, the 90 degree sector was approximately from, say about three-zero-zero all the way over to the right beyond zero-two-zero, greater than 90 degrees, but I stated that I did a high-power sweep from abaft to starboard beam to abaft of port beam that followed my 360 degree search. So, I want to ensure the court understands that I looked in the two quadrants that were abaft the port and starboard beam in the direction towards land, in the direction towards two known sonar contacts, and saw nothing.

When I asked the Officer of the Deck to bring the ship shallower--up higher by a couple of feet, I got a good look. I could see over the tops of the rolling swells. In my mind, I was confident when I looked down the line of bearing of zero-two-zero and three-four-zero that there was nothing there. I focused, I put my eye looking at the waves from up above down focusing outward. As I extended my field of view outward, I was looking for some kind of indication, the presence of a contact. I don't know

why I didn't see the EHIME MARU. I know that I didn't.

Q. Captain, let's go back to the FTOW, you said he didn't give you what you were supposed to get----

A. No, sir, I said that there was no queuing from the Fire Control Technician of the Watch because he saw that I was looking down the line of bearings where the two sonar contacts were held.

Q. Well, my understanding was from testimony, that this was a fairly precise thing to do. You had to look right down the contact line. You had to look right down that particular bearing in the contact.

A. If I was on 24 magnification, Admiral, that's true because the field of view would then be 2 degrees wide, but I wasn't. I was in one and a half times, which gives me 32 degrees field of view, increase that to times 6, which reduced that to 8, and then at one point hit the doubler and went to 12, which reduced that to 4 degrees. I changed that magnification zooming in down on that line of bearing.

Q. Okay, my question goes to though, isn't there some sort of collaborative effort between the FTOW and the officer that's got the periscope about this search or is it just by--in other words, if you didn't get what you thought you should get from the FTOW, did you say, "Hey FTOW, give me something?"

A. I didn't, sir, and you know that certainly could have helped to say, "Hey, fire control, put me on line of bearing to Sierra 12----

Q. Yes, that's what I mean. It's a collaboration between----

A. I didn't do that----

Q. The watchstanders----

A. No, sir, I didn't do it, and he could have said, "Hey, Captain, Sierra 12 or Sierra 13, whatever is 2.5 degrees to your right, you need to train right 2 1/2 degrees. Sir, you just passed it come back to the left," but he didn't do that.

Q. Your reports--there were two reports at periscope depth that stick out. One was no close contacts by the Officer of the Deck and your report was, I believe, was not visual contacts.

A. No, sir--my report was, yes sir, but when I finished my high-powered search, I called out so that everyone in the Control Room could hear. "I have no visual contacts or hold no visual contacts in high-power."

Q. Okay, let's go back to this thing about--I believe the quote was from the FTOW was that, "I have a good feel for the contact picture," which he quotes you just prior to leaving--just after leaving, I believe, periscope depth like 105 feet or something like that?

A. Just prior to proceeding to periscope depth is when, I don't recall the exact words under Petty Officer Seacrest's oath or in testimony, but it sounds like something I would have said.

Q. It's here in his testimony, so that's a report they're getting from their Captain--the team is getting from the Captain. Then, they have a no close contacts report and then they get a no visual contacts from their Captain. What do you think this does to the team in terms of--because we've heard--do people all reset--does the Sonar watch reset, does the FTOW kind of reset? Like he said, he out spotted the range based on that, it kind of validated the fact that this--what I thought was low confidence in the 4,000 yard reports was obviously in error and everybody kind of reset. Do those reports, in your view, do that to your team?

A. Sir, when I hear the Officer of the Deck make the report, "I hold no close contacts," it allows me to gain an extra element of comfort that we're okay. When ESM says, "I hold no threat contacts," I also get that feeling reinforced. And when Sonar says, "we also hold no threat contacts," it further helps convince me that we are okay on the--at that interface. My report--I didn't call out, "no close contacts," what I said, Admiral, is that, "I hold no visual contacts in high-power." That also was to re-enforce what had already been stated by the Officer of the Deck, ESM Watch, and Sonar. Does it reset? I can't tell you that it resets but,

Admiral, it gives you a comfortable feeling that there are no threats.

Q. Well, in this comfortable feeling then, when you've got no close contacts for you, why didn't that--why wasn't that reflected in giving the Officer of the Deck then his opportunity to do it? Why wasn't it reflected in your own guidance and your own Standing Orders about the time at PD? What--you know it goes back to what was the rush? What was the sense of urgency you had? Was it "Papa Hotel" at 1415? Why not take another minute or 2 minutes at periscope depth like your--what's the message to your whole team?

You have these Standing Orders and we've kind of gone through four or five of them here, four of them at least, I think. All of which you kind of, flippantly is not a fair characterization, but you blow by them. You don't give the team the opportunity to do what they're bound to do by your own Standing Orders. What kind of standards does that set then for your team about the way the Commanding Officer sees his own Standing Orders and the way they should be used, particularly when it's a non-tactical situation? When really those orders would make more sense to be run over or to be--to move forward if it was a tactical one where you were using knowledge and your value and your experience particularly to get to periscope depth in a tactical situation? It seems like it is really confusing for your team. Do you disagree with that?

A. Is your question, Admiral, because you said a lot here.

Q. I did.

A. Are those indicators that would have confused my team? I am trying to understand the question and what I need to answer here.

Q. I am trying to understand the message you think you're sending to your team in a non-tactical underway----

A. Admiral, on that day----

Q. About violating your own Standing Orders, whether it was preparing to go to periscope depth, the brief, the time at periscope, the time on TMA leg, what does that send to the team about what your standards really are. Does it send a message, Captain, or do you think it's just--you've got--you know where you are and you know what you want to do and you're not in hurry, but you're getting somewhere fast, so what's the message to the team?

A. It didn't send the right message to the team, Admiral, and looking back on it, if that first TMA leg had been longer, there is an opportunity we would have detected that 6 degree per minute bearing rate and not had that collision. If the periscope depth brief had been performed, it would have been clear I think that Mr. Coen and I--I'm not going to speak for Mr. Coen, but certainly for me that I didn't know about Sierra 14.

If I had received the report from Mr. Coen, "Hey, Captain, I hold two contacts, Sierra 12 and Sierra 13," that would have absolutely confirmed the fact that he didn't know about Sierra 14. It's possible if we had remained longer at periscope depth in performing a continuous periscope search, that we could have picked up the EHIME MARU, but I can't state that we would have seen it. The fact is, I was confident that I thought I knew what the contact picture was. When the submarine got to periscope depth and Mr. Coen didn't see anything, I didn't see anything, my subordinate watchstanders told me that they had no indications of a threat, I truly believed, Admiral, that we didn't have a threat.

Are those four instances where we didn't perform steps that are sequenced by my Standing Orders an indication of a lack of formality, no, sir. As the Commanding Officer, I have the right to choose when it is appropriate and when it is necessary to carry out those items, the NWP provides guidance. On that day, I thought that I executed the plan properly. RADM Konetzni said if you do that you had better be right. I will say it again, I was wrong. Regrettably, anyone of those four things could have precluded this from happening.

Q. Well, I just want to put in context with your mission, because your mission was a DV embark. It seems to me to imply that you don't--see this is--again, it's the conflict here. You imply over and over again that you weren't in a rush, but everything you do indicates you're in a hurry. PD 5 minutes, no brief; periscope depth, no second TMA leg; no TMA leg for Sierra 14, and so if you don't explain your urgency, it's--I mean we're going to have to go to our own conclusions here about what you're doing. And I'll tell you where we think we are right now, it sounds to me like you're trying to get back to "Papa Hotel" and deliver DV's off at the right time, so they're not late for anything. That's what it sounds like, Captain, because you know, we've all been on our individual Bridges. We all know how Captains build their own internal clock about what they're going to do. We know how you put a Nav Plot together with where you have to go, an SOA. We know how that works and it seems to me like there is a--that you came to the Conn with a sense of urgency already, and you haven't explained it yet and everything you do seems to indicate that you don't want to take time to do the smallest detail that would help you avoid a problem in a situation that is clearly non-tactical. Can you clear that up for us?

A. Sir, again, I can only tell you that I wasn't rushed. I didn't have a sense of urgency to get back to "Papa Hotel", it was physically not possible from where the submarine was positioned here on exhibit 4 [pointing with laser to Exhibit 4] to get to "Papa Hotel", the time distance, it couldn't happen, I knew that. Knowing that, it was my desire to get the submarine back on the surface, so once we transitioned from a submerged mode to a surface mode, I could get my Officer of the Deck up on the Bridge to communicate with Pearl Harbor Control the fact that we wouldn't arrive. I wanted to make sure that the ship was back on the surface by 1415, which was the absolute latest in that plus or minus period where I could communicate.

Also I know that, from experience, when I try to talk to "Papa Hotel", if I am sometimes outside 8 or 9 nautical miles, I have difficulty communicating on the VHF radio, on the handheld Bridge to Bridge, or

using the one that is in the Control Room here on exhibit 6 [pointing with laser to Exhibit 6] just after the Number 2 scope here forward of the navigational plotting table. My only desire was to get the submarine back to the surface with an Officer of the Deck manned, so I could tell "Papa Hotel", or excuse me, Pearl Harbor Control, I wasn't coming in on time and I needed another half and hour or 45 minutes before the ship could moor.

Q. But you testified that "Papa Hotel" didn't really, the time didn't really matter, so is this consistent with what you just said with that because it seems to me like if "Papa Hotel" isn't really important, does it matter if you get an Officer of the Deck on the Bridge 30 minutes from now or 40 minutes from now, you're still going to be late for "Papa Hotel", so what's it the rush?

A. Agreed, sir, I'm not trying to communicate that there was a rush. My desire was to get the submarine through the scheduled events and back on the surface and do that in a manner where we didn't dawdle. I didn't want to delay or waste anymore time. I wanted to get the submarine back to the surface.

PRES: I'll leave it at that, okay.

Questions by a court member (RADM Sullivan):

Q. Commander, during this portion of the chain of events, did you have any discussions with your XO? Did he give you any consult other than, I believe earlier on he mentioned you were running late and his unsworn testimony there was something to the effect, I've got--this is you speaking, "I've got a handle on it, don't worry or something like that." Did you have any other communications with him or anything like that?

A. I remember the XO--I don't remember the exact time, but when we were having lunch between the 1045 and the 1145 period, I don't remember if someone came in to speak for him, but it was kind of like a queue, "Captain, make sure you move the meal along, you know you're at the coffee, you're at the dessert point and really we should be at the point where the second sitting has started." I didn't meet with the

XO separately to discuss the events following that afternoon, but when I did leave the Stateroom, he did express concern over us getting back to Pearl Harbor on time and completing the afternoon agenda, and it was at that point where I may have said to him, "Hey, I've got it under control or I know what I'm doing." I don't remember the words that I said, but I do know that I wanted to get the photographs signed. I had 17 of them to take care of and each one took more than just, you know, 5 minutes, so my desire was to do that during the second sitting before we commenced the afternoon events.

Q. Back to the periscope search--in your use of the periscope. As a submariner, both of us know that one of the marks of a Commanding Officer is his ability to operate the periscope and it isn't until you're fairly senior that you are really proficient at operating a periscope because it's a difficult instrument. And particularly in the like that when you're looking through the periscope as the Commanding Officer, your crew and anyone else who is onboard, their safety is in your hands through your eyes. You're the only one that can see.

And, the evolution that you're about ready to execute here, doing an emergency blow, you are in a way almost obligated to take it a step further because you have to worry about the safety of any surface contact that might be within the area. And one of the things that I would like you to try to help me with is, and certainly you're the Skipper at the time, is based on what--the search that you did, I don't quite understand how that could be considered adequate to allow you to leave periscope depth, even rapidly as you did, to come back up to the surface with an emergency blow knowing that it was safe to do so, that you had no contacts that were in danger. Can you shed some light on that? Why you didn't come up higher, why you didn't search longer? This is an obligation that you, as the Commanding Officer before executing this maneuver, would have to of thought through.

A. I did think through it, sir. With the report that Sonar held two contacts to the northwest, to the northeast, that I held no visual contacts when I did my search, and that Sonar did not hold contacts

to the South of our position, and also from historical experience knowing that if a sailboat is in the area and--could I have the other exhibit brought up please that shows the Navigation Chart? I'll talk to that briefly.

[LCDR Harrison did as directed.]

WIT: Thanks, LCDR Harrison.

ASST CC (LCDR HARRISON): Yes, sir.

WIT: [Pointing laser at Exhibit 17.] I'm talking about Exhibit 17. Sailing vessels that operate in this area, from my experience, are in the vicinity of Kaena Point and they also operate sometimes over here by Diamond Head, but that's dependant upon time of the year and that is not intended here to distract the purpose of the court. But, with the ship at periscope depth in our operating area, I was able to look down to the South, Southeast, Southwest, as I am showing you here on Exhibit 17, and confirm that I held no contacts visually. I knew Sonar had no indications of motor noise or engine noise, so my threat access was to the North in the direction Oahu. I did my visual search down the line of bearings where I knew contacts to be.

Sailing vessels do in fact transit between Molokai, Oahu, and from Oahu up to Kauai, but I saw no sailing vessels on that day--on that Friday. Most of them are out on the weekends, if they are having regattas, so I focused my search effort in the area where I knew contacts to operate, here through the Molokai Channel and also up here in the direction towards Kaena Point. I saw nothing and at the time I thought it was adequate.

To get to the second part, am I obligated to take it a step further to ensure that the area is safe and that there are no contacts? I thought, Admiral, when I ordered the ship to come shallow that that was adequate. Certainly a higher look, a higher look that is, perhaps even broaching the ship in hindsight, would have been the right thing to do. In hindsight, the chances of me picking up the EHIME MARU visually would have increased significantly.

Q. One final question before I turn it over to RADM Stone. When you looked through the periscope on the 9th, was your vision impaired?

A. No, sir, my vision was not impaired.

Q. You were able to see a clear picture?

A. Sir, I noticed a haze, again, I specified that when I looked up and I'm pointing here on Exhibit 17 in the direction of Oahu, I couldn't--it was like if there a white belt along the land mass and I could see the prominent peaks of land here on Oahu, on the Waianae Mountain Range, and up here by the Koolaus, but I couldn't see the airport, I couldn't see the Honolulu buildings. I did, in fact, see I think, Diamond Head if I saw--no I can't remember if I saw that or not, but I do know that I saw land, the tops of the peak and the white belt around the island. I didn't know if that was in and around my operating area, but I did notice what was a haze. Gray clouds, almost 100 percent overcast.

Q. But your vision was not an issue?

A. No, sir, when the ship came up a couple feet----

Q. Your actual vision----

A. Oh, my actual vision, no, sir. My vision wasn't impaired. I can focus the diopter on that periscope and set it to where I can see the reticule, that's one of the first things that I do when I take the scope is I look and focus at the reticule. I look at it so it's a sharp line kind of like the vertical lines here on the back of the chart, so that I could see that knowing that then I am focussed properly and I can look out and see the field of view.

PRES: Okay, thank you. RADM Stone?

Questions by a court member (RADM Stone):

Q. I'm just going to make a comment before I get into my questions about the periscope search. The comment is that when I evaluate and look at how the boat proceeded to periscope depth; the inadequate TMA legs, the abbreviated time frame to get up to periscope depth; we've heard that sort of testimony over the last 12 days and people will occasionally end up by saying, "oh, well, we got there safely." Well, my comment to that would be you're lucky that you got there safely based on the abbreviated preparations that were made, and so that's the context that I'm going into now, my questions concerning the periscope search that followed getting up to periscope depth. For me personally as a court member, the most important part for me is the periscope search because so many of the other things are based on the Chief of the Boat chopping the watchbill, other folks providing you backup, but the periscope search decision on the depth that the boat would be at for it, and the duration of the search, those two items as a court member are the focus of my concern about the Commanding Officer's judgment on 9 February.

And, I say that knowing that the FTOW had some information available that would have queued you towards a, what I will call it, an acoustic contact, which the EHIME MARU was. In other words, that is a factor that goes into the search, the acoustic contacts that are shared, as well as ESM if there's radar once you get up to periscope depth, but to me those are all lesser included cases of the requirement for the Commanding Officer to search for items that are non-acoustic as well, and the requirement to look out to a range that is safe and prudent, and that it's for the court to decide whether that meets criteria, whether that's reckless, or negligent and that's for further discussion in deliberation.

But, it is an important aspect of this--for me as a court member is, was that a safe and prudent judgment by the Commanding Officer of the GREENEVILLE to come to 58 feet and search for approximately 80 seconds when in fact there could

have been a sailboat out there half the size of the EHIME MARU with 35 to 50 people onboard going on a course of one-six-six at 11 knots only 2,400 yards away and the search is inadequate for that, and so it causes me to think very deeply about what sort of prudent and safe search is that by a CO of a submarine if you can't even pick up the EHIME MARU at 2,400 yards, that doesn't relieve that CO of the responsibility to come to a depth, to look at a great range for other non-acoustic contacts that are carrying human beings onboard. And so, I say to you, I'm very interested in your comment on prudent and safety searches and this coming to only 58 feet for 80 seconds because it is not registering for me at how you can assure yourself that there is no sailboat out there with 50 people onboard prior to hurdling a 6,900 ton submarine through the ocean/
A. Sir, the question that I take away from your comment there addresses the issue of prudent and safety searches and the issue of 58 feet for 80 seconds, is that correct, sir?

Q. Right, and particularly, this issue of a sailboat with 50 people. You didn't meet my criteria on that, if you think that's an unfair criteria that you need to take measures to see those type of contacts and therefore if you're doing that, you would see EHIME MARU.

A. Sir, I will say that I focused my sector search in the direction where I knew it would turn the ship to perform the emergency blow. When I conducted the emergency deep or ordered the emergency deep, it was my intent--I didn't vocalize that to the Officer of the Deck, but to reverse course back to the left to go back in the area where I had just completed my dedicated search, I'm pointing here again to Exhibit 17.

When the ship came shallow up to 58 feet, and actually came shallower than that, I sensed that, at least what I thought I saw out the periscope because of what I'm accustomed to in height of eye when the periscope's at 64 feet and the keel depth is 60, I know what 4 feet looks like. When the ship surged up as we rose up through 58 feet, I don't recall what the diving officer called, but I remember thinking to myself, "Oh, this is a good look." I

could look down and see the wave tops. When that occurred, I panned to the right, I didn't see any of the contacts that I thought I would see or that I expected to see. In my mind, I had conducted an adequate sector search looking for non-acoustic contacts, that was in fact in the back of my mind and when I had satisfied myself that I met that requirement, I moved on with the evolution.

Q. I have some distinguished visitor questions for you. In your opinion, did the distinguished visitors impact your ability to safely complete your mission on 9 February?

A. No, sir, they did not.

Q. Do you have any comments that you think need to be known to the court that have not already been shared with us concerning the role of the DV's on 9 February?

A. No, sir, I do not.

MBR (RADM STONE): Admiral, I have no further questions on the DV embark.

PRES: The court will recess until 1445.

The court recessed at 1424 hours, 20 March 2001.

The court opened at 1445 hours, 20 March 2001.

PRES: The court is now in session. Counsel for the Court?

CC: Let the record reflect that the members, counsel, and the parties are again present. The court has no procedural matters.

PRES: Counsel for the Parties, procedural matters?

Counsel for CDR Waddle, party (Mr. Gittins): No, sir.

Counsel for LCDR Pfeifer, party (LCDR Stone): No, sir.

Counsel for LTJG Coen, party (LCDR Filbert): No, sir.

PRES: Counsel for LCDR Pfeifer?

Counsel for LCDR Pfeifer, party: [LCDR Stone]: Sir, we have no questions.

PRES: Counsel for Mr. Coen?

Counsel for LTJG Coen, party (LCDR Filbert): Thank you, sir.

CROSS-EXAMINATION

Questions by LTJG Coen, party (LCDR Filbert):

Q. CDR Waddle, I'd like to begin by asking you some questions about the training of LTJG Coen. Now, it's my understanding that you and LTJG Coen reported on GREENEVILLE at roughly the same time, is that right?

A. I took command of the GREENEVILLE on March 19th of 1999 and had the opportunity to welcome LTJG Coen and his wife, Wendy, newlyweds, about a month or two after my assumption of command.

Q. Okay, now from that time that LTJG Coen reported onboard until the time of the unfortunate collision, you would have been responsible for his training, his overall training during that period?

A. That is correct.

Q. And so the process of qualifying as an Officer of the Deck, you were overseeing that as the Commanding Officer during that period?

A. I would like to think of myself, as well as the Executive Officer, who served almost a year of that time as well as his mentors.

Q. Okay, and then ultimately, of course, you had to sign off--certify him as a qualified OOD?

A. I did.

Q. And same for when he was awarded his Dolphins as well?

A. That is correct--clarify that--I certify that Mr. Coen has completed the prerequisites for being awarded the coveted Submarine Dolphins and make that recommendation to my boss, the Commodore, of

Submarine Squadron ONE, who then in turn forwards that to the Type Commander, it's ultimately the Type Commander that awards the Submarine Dolphins to LTJG Coen.

Q. I understand. Now, I wanted to ask you some questions about after LTJG Coen became qualified-- well, I guess even before when he was standing watch as a Junior Officer of the Deck or any kind of UI watch in Control. Are you aware of anytime where he was on watch in Control when the AVSDU was out of commission?

A. No, I am not. I can't recollect or recall whether that condition existed.

Q. Do you recall any specific discussions with LTJG Coen at any time regarding what should be done if the AVSDU were to be out of commission?

A. No, I did not specifically address that. I'd like to preface it though by saying that in the course of LTJG Coen's training, as well as that of other officers, he has been exposed to ship's casualties and drills, which would cause him to exercise judgment and demonstrate that he can overcome obstacles.

Q. I understand, but specifically, the AVSDU was never brought up by you?

A. No, not the AVSDU.

Q. Now, I wanted to ask you some questions, moving on to another area, regarding the time leading up to periscope depth. Now, I believe you testified, and we've heard from several people that LTJG Coen was a methodical and a meticulous watchstander, do you agree with that?

A. He was and is.

Q. Now, we know that LTJG Coen did not have this pre-brief with the watchstanders that, I believe is in your Standing Orders. Let's say that you had not given this 5 minute goal for LTJG Coen to get to periscope depth, do you think that LTJG Coen, and he was the one who was--let's say he was the one who was really running the show in Control, do you believe that LTJG Coen would have conducted that brief?

A. Yes.

Q. And the report that's given to you by the Officer of the Deck regarding coming to periscope depth that contains information regarding contacts and bearing, and that sort of thing, do you believe LTJG Coen would have given that report?

A. Yes, I do.

Q. And, regarding the periscope search that was done, if you had not stepped in and taken the scope, would it be your belief based upon LTJG Coen and what you know about him, that he would have conducted the search in accordance with your Standing Orders?

A. No doubt in my mind.

Q. Now, as far as the--the way that things went with LTJG Coen, from angles and dangles up to the time of the collision, I believe you said, when you were being asked questions earlier, that when you came into Control before angles and dangles, that you told LTJG Coen that you--what you wanted to do, which was conduct angles and dangles. Is that right?

A. That is correct.

Q. And then----

A. I told LTJG Coen shortly after arriving in the Control Room from Sonar, that I wanted him to ensure the ship was stowed and rigged to support angles and dangles, and I asked him and I may have directed it to the Chief of the Watch, to ensure that the Galley was properly stowed. So, I certainly communicated to him that the next event that I was looking toward was ship's angles and dangles.

Q. Okay, now after that time--once the angles began--I think you said earlier that from then on really your relationship with LTJG Coen was directive in nature, that you would tell him what you wanted and that he would carry out that order?

A. That's correct. As I was standing on the Conn, can we pull up the other exhibit please that shows the orientation of the Control Room?

[LCDR Harrison did as directed.]

WIT: Thank you, LCDR Harrison.

ASST CC (LCDR Harrison): Yes, sir.

WIT: I'm talking about Exhibit 6. I positioned myself I in between Number 1 and Number 2 periscopes [pointing to Exhibit 6] right here behind the OOD stand. LTJG Coen then positioned himself over here [pointing to Exhibit 6] on the port side of the Conn where he would have direct view of the ship Control Party in that evolution.

Q. Okay, and so my question was that----

A. And I'm talking again about Exhibit 6.

Q. Right, well, let's talk overall. From the time that the angles began until the time of the collision, that was my question, that you were--that this directive relationship between you and LTJG Coen existed?

A. I communicated to LTJG Coen what I desired as far as ship maneuvers in changing course, speed, and depth.

Q. And, then he would carry out that order by issuing it to the watchstander?

A. He did indeed.

Q. Alright, so during this period up to the time of the collision, there weren't any discussions between you and LTJG Coen about "this is what I want to do" and then later on give him the order, or conferring with him about what he thought should happen, it was simply you giving the--telling him what you want to have done and then he would issue the order?

A. I gave no other direction to LTJG Coen other than to change your depth with this angle, come left, or right at this speed or at this ordered bell, but an opportunity existed for Mr. Coen to provide me with any concern that he may have had, but it was very clear, from my prospective, that I told Mr. Coen what I wanted him to do as far as employing the ship.

Q. Okay, my question was, you weren't conferring with him though about what he thought should be done or you didn't ask him for any input on what should be done?

A. Correct, there was no discussion or request for that information.

Q. Okay, and that existed even at the time that you gave him this 5 minute goal to get to periscope depth?

A. That is correct.

Counsel for LTJG Coen, party (LCDR Filbert): Thank you. Sir, I don't have any other questions.

PRES: Counsel for CDR Waddle, redirect?

Counsel for CDR Waddle, party (Mr. Gittins): I just have one question, sir.

REDIRECT EXAMINATION

Questions by counsel for CDR Waddle, party (Mr. Gittins):

Q. CDR Waddle, the bottles of salt--saltwater--seawater, that were retrieved on this DV cruise, they had the--an indication of test depth on it?

A. That's correct.

Q. What--what was the--was it words or a number that was indicated on the bottle?

A. Words--words, no numbers, and I can't even recall on this particular incident if the word "test depth" was on there. I just don't remember, it may have been the date and that a water sample was collected. For that matter of fact, I--I can't--I can't confirm that we had the word "test depth," I think we had the word "test depth" on a pre--or prior DV cruise, but I know that numbers were not annotated on the bottle.

Counsel for CDR Waddle, party (Mr. Gittins): That's all I have, sir.

PRES: Before the court hears arguments, does Counsel for the Court have any additional evidence to present?

CC: No, sir.

PRES: Do any of the parties have any additional evidence to be present?

Counsel for LCDR Pfeifer, party (LCDR Stone): No, sir.

Counsel for LTJG Coen, party (LCDR Filbert): No, sir.

PRES: Are there any other procedural matters to discuss before hearing arguments? Counsel for the Court?

CC: Sir, can we have CDR Waddle step down off the witness stand?

PRES: Certainly.

WIT: Thank you, sir.

CC: Thank you, CDR Waddle.

[The witness resumed his seat at counsel table.]

PRES: Very well. The court is now ready for arguments from the parties. We're going to proceed

in the same manner in which the court received evidence from the parties. Counsel for Mr. Coen will be given the first opportunity to present arguments, followed by Counsel for LCDR Pfeifer, and then Counsel for CDR Waddle.

Counsel for Mr. Coen, do you like to present arguments to the court?

Counsel for LTJG Coen, party (LCDR Filbert): Yes, sir, I would like to present argument at this time, but I want to make sure if we begin argument today that we will--does it look realistic to complete all the arguments before we close for the day.

PRES: Counsel, do you have any comments on that?

CC: Yes, sir, why don't we just go around to the parties and--Commander Filbert, how long do you think your argument is going to take?

Counsel for LTJG Coen, party (LCDR Filbert): A half an hour, sir.

CC: Half an hour. LCDR Stone?

Counsel for LCDR Pfeifer, party (LCDR Stone): No more than a half, sir.

CC: Mr. Gittins?

Counsel for CDR Waddle, party (Mr. Gittins): Up to an hour--I would be hard pressed to give it an exact time.

CC: Mr. President, I would recommend we simply continue on today and take all arguments today.

PRES: Alright, thank you. Counsel for Mr. Coen, you may present argument?

Counsel for LTJG Coen, party (LCDR Filbert): Thank you, sir.

CC: Do you need some assistance in setting up, Commander Filbert?

Counsel for LTJG Coen, party (LCDR Filbert): No, sir, these are the exhibits I wanted to refer to.

CC: Okay.

Counsel for LTJG Coen, party (LCDR Filbert): Presented argument.

PRES: Thank you, counsel. Counsel for LCDR Pfeifer, closing argument?

Counsel for LCDR Pfeifer, party (LCDR Stone): Yes, sir.

Counsel for LCDR Pfeifer, party (LCDR Stone): Presented argument.

PRES: Thank you, counsel. Counsel for CDR Waddle?

Counsel for CDR Waddle, party (Mr. Gittins): Yes, sir. I need a minute to get the podium.

[The bailiff brought in podium from Deliberation Room.]

Counsel for CDR Waddle, party (Mr. Gittins): Presented argument.

Counsel for CDR Waddle, party (Mr. Gittins): You only--this board was only asked to investigate the SUBPAC involvement in the DVs, and the emails that I quoted from indicated that there was some higher level activities and involvement in these DVs being offered this opportunity, and this board never really had the opportunity to investigate that, but I would submit to you that somebody ought to investigate it. When an Admiral--a retired Admiral starts throwing around the Secretary of the Navy's name, that's something that needs to be investigated, to determine whether or not ADM Macke had some sort of financial relationship with these people, and whether or not ADM Macke was a director--or an officer in the organizations, which these people represented, whether or not this was an appropriate DV cruise, is not answered here. And, you don't have the ability to do it because your focus was limited to SUBPAC on down.

PRES: We have the ability to make a recommendation----

Counsel for CDR Waddle, party (Mr. Gittins):
Indeed, sir, and that's why I just raised it to you because I think that--that does need to be----

PRES: I just want to--we should be very clear on this.

Counsel for CDR Waddle, party (Mr. Gittins):
Indeed, sir.

PRES: Before we start spreading it out here.

Counsel for CDR Waddle, party (Mr. Gittins): Yes, sir.

PRES: And, I don't want to interrupt you, but I'm going to on this one.

Counsel for CDR Waddle, party (Mr. Gittins): Yes, sir.

PRES: We have the ability to make that recommendation and we will.

Counsel for CDR Waddle, party (Mr. Gittins): And, exactly why I've raised it, sir.

PRES: Okay.

Counsel for CDR Waddle, party (Mr. Gittins),
continued argument.

PRES: Thank you, counsel.

Counsel for CDR Waddle, party (Mr. Gittins): Thank you, sir.

PRES: Counsel for the Court, do you wish to make a closing statement?

CC: No, sir.

PRES: I'm about to close this Court of Inquiry. Before doing so, I will outline the procedures that

the court will observe in preparing it's final report.

After closing, the court will begin its deliberations. The court will consider that evidence presented in open court. RADM Ozawa will be present during these deliberations, but he will not vote.

Counsel for the Court will not take part in the court's deliberations; however, counsel will assist in preparing the court's findings of fact, opinions, and recommendations.

The court will then review the prepared record and conduct final deliberations. At the conclusion of those deliberations, the court will deliver the report to the Convening Authority, ADM Fargo, CINCPAC Fleet.

In accordance with the governing directives, copies of the court's final report will not be provided to the parties, or to the public until authorized by the Convening Authority.

Finally, I return to the thoughts expressed in the court's opening remarks. The court was charged to conduct a fair, and open, and thorough investigation of the facts. We have done so by taking the public testimony of some 31 individuals, including key watchstanders from the day of the collision. The court has the evidence necessary to provide appropriate findings, opinions, and recommendations to ADM Fargo.

The tragic consequences of this collision have impacted the lives of both Japanese and American families. While this inquiry cannot change what has happened, a thorough understanding of what occurred on 9 February 2001, can serve to prevent a similar tragedy.

This Court of Inquiry is closed.

The court closed at 1631 hours, 20 March 2001.